

STATEMENT

SUBMITTED BY

LIEUTENANT COLONEL DESBARRES,

FOR

CONSIDERATION.

Respecting his Services, from the Year 1755, to the present Time—in the Capacity of
AN OFFICER AND ENGINEER during the War of 1756.—The UTILITY of his Surveys and
Publications of the Coasts and Harbours of North America, intituled, THE ATLANTIC
NEPTUNE.—and his Proceedings and Conduct as LIEUTENANT GOVERNOR AND COMMANDER
IN CHIEF OF HIS MAJESTY'S COLONY OF CAPE BRETON.

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STATEMENT

OF THE

LIEUTENANT COLONEL DEBARRE

CONSIDERATION

in view of the fact that the same has been
as ordered and approved by the War Department
of the United States and the Department of the Army
and the Department of the Navy and the Department of the Interior
in view of the fact that the same has been

RECAPITULATION.

P. denotes Page: . . . N. the Number in Margin.

SERVICES during the War of 1756—DesBarres particularly honoured with the Approbation of his Sovereign, as well as of Lord Amherst, General Wolfe, Marquis Townshend, &c: [P 1. N 1 to 13]

ATLANTIC NEPTUNE.

ENGAGED in 1763, under the Direction of the Board of Admiralty, to make a Survey and take the Soundings of the then unexplored Coasts and Harbours of Nova Scotia. Encouragements held out: "to be rewarded in a manner adequate to his Diligence, Ability, and the Value of his Performance, and promoted in his Military Profession."

Having exerted himself in this arduous Service until the End of 1773, he returned to England and laid his Performance before the King. His Majesty was pleased to order the same to be engraved.

Nautical Charts of several other Parts of the American Coasts being much wanted for the Operations of War, he was, in pursuance of the Royal Commands, farther engaged in the Construction and Completion thereof until the Year 1784.

Instances of the Utility of his Labours in the Period of the Prosecution of the Work—It has been productive of Advantages in the Amount of Millions, and will be useful, so long as Navigation shall continue to be an Object of National pursuit. [P 2 N 14 to 18, 20, 21]

Preferred a Memorial to His Majesty for *Reimbursement, Compensation, and Reward*—having all along, in the Prosecution of his Duty, applied his Resources to the Support of the Service entrusted to his Care—his Property lying on the Enemy's Frontiers in America having been *sacked* and plundered in the mean Time—and, instead of obtaining the promised Advancement, feeling himself under a Preclusion even of that Promotion which otherwise he could not have failed to obtain. He humbly submitted therewith a Statement of his Services, to which General Prevost was pleased to add the following Declaration, viz. "Having read the foregoing Statement, with the Papers accompanying it, and, upon the Requisition of Major DesBarres of my Opinion, I readily declare that his Assertions therein respecting his Services, which might with propriety have been enlarged on much to his Advantage, appear to me to be justly founded, and that, instead of his being employed on extraordinary Services, if he had continued to do Duty with his Corps, which I commanded from the Beginning to the End of the War of 1756, or if he had remained attached to that particular Army of which his Corps composed a Part, there is no Doubt, but he must have been a Lieutenant Colonel in the Year 1775, when the late Lieutenant Colonel Fuzer obtained that Appointment, who was his Junior in the Regiment, and who, without the smallest Will or Intention to disparage the One or flatter the Other, was not more the Inferior in Rank of Mr. DesBarres than he was in Talents and Science, both natural and acquired," "A. PREVOST, M.G." "Barnet, 1st May, 1784."

The Advances incurred in carrying on the Survey of the Coasts and Harbours of Nova Scotia, for defraying, the Expence of surveying and astronomical Instruments and

Implements, Assistants, Pilots, Guides, replacing Provisions and Necessaries lost in Shipwrecks and the overfetting of Boats in the Operations of taking the Surveys and Soundings, &c: had amounted to the End of 1773, to . . . £4382 3 2

and for the like Contingencies, for Assistants, Draftsmen, Stationary Ware and Implements, &c: employed in the Course of constructing Nautical Charts, &c. under the Orders of the Treasury until the Year 1784, to . . . 5475 0 0

The Expence for engraving 257 Plates (as appears from Inspection of the *Atlantic Neptune*) at the Price stipulated by Government of 35 Guineas for each Plate amounted to . . . 9444 15 0

and for the printing of Impressions for the Supply of the Public Service . . . 1771 0 0
21072 18 2

Received [in Part] for Contingencies incurred in the Prosecution of the Survey of the Coasts and Harbours, &c: . £166 5 6

and of the Expence for engraving the Plates of the Work [by Grants of Parliament in 1775, 1777, 1778, 1779, 1780] the net Sum of 8188 18 8

8355 4 2
£12717 14 0

His Majesty having been pleased to refer the said Memorial to a Committee of the Lords of Privy Council, and their Lordships having requested the Opinion of the Lords Commissioners of the Admiralty thereupon, the said Lords Commissioners advised the Sum of £3915 17s. 8d. to be paid for Contingencies, incurred in the Prosecution of the Survey of the Coasts and Harbours of Nova Scotia [which had been carried on, from 1763 to the End of 1773, under their own immediate Direction] but, with respect to the subsequent Expence incurred in the Course of constructing Nautical Charts of other Parts of the American Coasts and Harbours [until the Year 1784] as the same had been undertaken in pursuance of His Majesty's Royal Order to the Treasury, their Lordships were of Opinion that the Consideration thereof did not belong to their Department. Whereupon, the Lords of the Committee, after stating in their Report to His Majesty the Sum proposed to be paid for Contingencies during the Period of the Survey of the Coasts and Harbours of Nova Scotia, were pleased to express themselves as follows: viz.—"It only remains for this Committee to state to your Majesty, and humbly to submit to your Majesty's Gracious Consideration the Recommendation in Favour of the Memorialist, contained in the Report of the Lords Commissioners of the Admiralty upon that Part of the Memorialist's Case, which relates to Compensation for his Losses and Reward for his Services, viz.

"With respect to the Losses which the Memorialist may have sustained in Rank and Emolument in his Profession of a Soldier, and his Private Fortune, by devoting so many Years of his Life to the Execution of an arduous and difficult Work which must be pro-

" ductive of great Benefit and Utility, not only to Your Majesty's Service, but to the Public in general, We are not competent to form a Judgment of the Nature of these Losses sufficient for us to estimate the Amount thereof, or to propose (did it belong to us so to do) an equivalent Compensation; But we are nevertheless of Opinion, that the Memorialist may be deserving of some Mark of Your Majesty's Favour, as a farther Reward for his Zeal, Activity, and Ability, in prosecuting and completing the abovementioned useful Work, &c."

Arrears £12717 14 0
Received, in January 1784, upon His Majesty's Order in Council 3915 17 8

Balance [exclusive of Loss by Interests paid on the Advance of Money] £8801 16 4

It will appear [P 5. N 26.] upon Comparison of the Reimbursement claimed by DesBarres for Advances incurred in the Prosecution of the abovementioned Surveys and in preparing Charts for the Public Exigency, with the *Sums actually paid* by the Public in the same Period of Time for Services of a similar Nature [the Land Surveys in America of Messrs. Holland and Debrahm, and for the Purpose of their preparing the same for Publication] that, the Public had regularly paid *in advance every Year* the average Sum of £1089 11s. 2d. for defraying the Contingencies of the Service carried on by the latter; whereas DesBarres, who had engaged in the Prosecution of a similar Service, far more difficult, laborious, extensive, and beneficial, implicitly trusting to be honourably recompensed in the End as well as reimbursed, claimed no more than his absolute and evident Disbursements—the average annual Amount of which was £469 7s. 9d. [P 3. N 19, 22 to 26.]

NAVIGATION AND COMMERCE, &c:

EARL HOWE had in Contemplation to institute an Office, [and to honour DesBarres with the Direction thereof] for the Benefit of Navigation and Commerce, productive also in Times of War of peculiar Advantages in facilitating the Execution of Designs of Enterprize, estimating and regulating the Forces and Expenditures requisite, obviating Difficulties, ascertaining the Permanency of acquired Success, &c: [P 6. N 27. P 84. N 350, 353.]

CAPE BRETON.

REASONS which induced the Measure of colonizing Cape Breton—to extend the Field of Accommodation to the Loyalists and disbanded Troops, and Others in destitute Circumstances at the close of the American War, [particularly the Whalers and Fishermen of Nantucket, &c, who proposed continuing in Allegiance to His Majesty] as well as in the view of securing to Great Britain the Benefits which France formerly enjoyed from that Island—in the Employment of above Three hundred Vessels, Fifteen hundred Shallops, and Fourteen thousand Men, in its Fisheries, producing nearly Half a Million Sterling per Annum—capable of being greatly enhanced in the more energetic Hands of Britons. Situation and peculiar Advantages of Cape Breton—the natural Place of Arms for the Protection of His Majesty's transatlantic Dominions, the fittest Emporium for Commerce in North America between Great Britain, the West Indies, the Gulph and River of St. Lawrence and the immense Countries in the Rear of the American States. [P 6, N 28, 30.]

DesBarres appointed Lieutenant Governor and Commander in Chief of Cape Breton and its Dependencies. Sailed from England in October and arrived at the Infant Colony,

in December 1784. Exerted every means in his Power to forward the Objects of his Mission. Faithfully reported the State and Circumstances of Affairs. Submitted a Rule of proceeding to be observed until he should receive farther Directions. Transmitted Accounts of the Expenditures incurred, with an Estimate of what appeared necessary to be incurred. The Bills drawn by him, on Account thereof, accordingly paid at the Treasury. The transmitted Accounts, received by the Public Offices and no Objections whatever signified thereto. The Agent, upon official Communications, advised to pursue the Method DesBarres had adopted, as being regular and proper. [P 6. N 29, 31, P 8. N 37 to 46, 48 to 51.]

Advice of the Colonial Council "to procure Provisions for the existing Exigency, and to draw Bills for the Amount on the Treasury." [P 9. N 47.]

A considerable Body of Whalers and Fishermen propose to emigrate from Nantucket, Martha's Vine Yard, Rhode Island, &c: with their Families and Property to Cape Breton. Proceedings thereon. Causes of Perplexity. [P 10 N 52, 54, 55.]

Progress—between Three and Four thousand People had been settled in the Infant Colony—its Exports, for 1785, through the Customhouse, of the Proceeds of Industry, in cured Fish, &c, exceed £40,000 in Value [P 10, N 53, 56.]

OCCURRENCES.

Sources of Perplexity.—Whatever might have induced the Governor of Nova Scotia, to resign any Part of his Duty to the Commanding Officer of the Troops at Halifax, the peculiar Circumstances of the Infant Colony did not allow the Imitation of such an Example, if even DesBarres had been so inclined. [P 11, N 57.] While Provisions to above 30,000 People were issued in the District of Halifax alone, Cape Breton not only laboured under a singular Preclusion of a similar Aid; but also the Exertions used for the Preservation of the Lives of its Colonists were by clandestine Means endeavoured to be frustrated. [P 11. N 58, 59.] Perplexities. Proceedings thereupon. Result. [P 12, N. 60, 61, 63, 66, 68, 69.] The Provost Marshal is accused, and Colonel Yorke's Accusation proved to be unfounded. [P 12, N 62, 64, 65, 67.] Proceedings by the Chief Justice against Persons concerned in Acts of violent Opposition to the Legal Authority. [P. 14, N. 70, 71.] Advice of the Colonial Council. Colonel Yorke engages to issue 40,000 Rations of Provisions for the Support of the Inhabitants—about 5000 were received in Part—the Residue was to be called for as wanted. [P 15, N 72, to 74, 78.]

In the mean Time, the Brigantine Amelia, having Provisions on Board, arrived at Sydney in December 1785.—Her Master John (Drummond) and the Supercargo (James Angel), being called before the Council, declared on Oath the Circumstances of the Vessel and Cargo. Resolution, Clandestine Proceedings of Drummond and Angel. They falsify their Declarations on Oath, &c. Farther Resolutions. [P 16. N 74 to 77, 79, to 94.]

The Provisions in the Amelia subsisted the Colony until the middle of February 1786. Application being made for the Residue of the 40,000 Rations, Colonel Yorke refused to comply with his Engagement. His Pretexes. Precautions used. [P 12, N 98 to 105.]

The Colonial Council advise a Chancery Writ to be issued for entering Store to obtain the Balance of the 40,000 Rations. The Execution of the Writ delayed in order to expostulate with Colonel Yorke, who appears determined to oppose the Legal Authority by Force. [P 19, N 106 to 113.] Precaution. [P 21. N 114.] The Riot Act is proclaimed, and (in the Execution of the Writ, on the 2d March 1786) the Person, directing on the Spot an armed Opposition to the Civil Authority, is taken Prisoner by the Provost Marshal; but immediately rescued. [P 21. N 115, 118.]

Colonel Yorke having formed a Disposition with the Troops, sent a Letter saying that, "He was unassisted with Legal Aid by Council and therefore wished to keep clear of any Infingement on the Constitution till he could procure proper Advice and Assistance." [P 21. N 116.] The Chief Justice and the Attorney General are directed to give their Opinions on the Affair, in order that the same be furnished to Colonel

Yorke. Law Opinions accordingly delivered to Colonel Yorke. [P 21. N 117, 119, 120, 221.]

The Affair was now out of DesBarres' Department. The Inhabitants and Magistrates carried the matters before the Supreme Court: where Presentments were made, and the Chief Justice issued Warrants for apprehending the Persons guilty of Resistance and Opposition to Legal Authority. Colonel Yorke, convicted before the Justices of Quarter Sessions, according to the Form, Force, and Effect, of the 15 Article of the Act of Parliament for punishing Mutiny and Desertion and for the better Payment of the Army in their Quarters. The Colonists are alarmed by Gangs with Bludgeons and Fire Arms strolling at late Hours in the Night. Outrages towards the Officers of His Majesty's Revenue in the Execution of their Duty. [P 22. N 121, 123 to 125, 127.]

The Brigantine Rachael, laden with Flour, bound from Quebec to Halifax, had, in the Beginning of the Winter, been driven, by Strefs of Weather into Arishat Harbour, and was there detained in the Ice—The Council advised that the Provisions in her be obtained, by Purchase, Imprest or any possible Means, and accordingly the said Provisions were purchased. The Difficulty, was how to bring them to Sydney, Arishat Harbour lying about 100 Miles distant and the intermediate Country being a thick Forest then covered with Seven Feet of Snow. One hundred Men, fitted with Snow Shoes, &c: were dispatched to bring, on Sledges, as much of the Provisions as they could carry for immediate Relief. Perfidious Designs, meditated to frustrate those Exertions. Resolutions and Proceedings in consequence. Instances of the Attorney General's Perfidy. [P 24. N 126, 128 to 143, 145, 146.]

Orders issued and Proceedings directed by General Campbell, lamentably prejudicial to the Infant Settlement. Unable by any Means of Remonstrance to remove in any Degree the fatal Illusion under which the General had seemed to labour, DesBarres conceived it to be his Duty to transmit to Government the whole of the Proceedings, together with the Prayers of the People to His Majesty, and, the *Chief Justice* having solemnly declared in the Supreme Court that he could no longer, with Effect and Safety to himself and to the Jurors and Witnesses, carry on the Administration of Justice in the Colony, the Colonial Council advised that he should proceed to England, with the Documents and Proofs of the Transactions which taken place. [P 26. N 144, 147 to 164, 166, 167.]

In June 1786, the Detachment of the 33d Regiment was relieved, by another Detachment of the 42d under the Command of Lieutenant Colonel Charles Graham, who (as he said) was to pursue the same Line of Conduct as Colonel Yorke had done, and for which General Campbell had given him *Secret Orders*. Upon the Arrival at Halifax of the former Detachment, Lieutenant William Norford, in consequence of having, on the 1st March preceeding, expostulated with Colonel Yorke on the Illegality of opposing the Civil Authority of Government, was tried before a General Court Martial, and sentenced to be cashiered. Proceedings. His Majesty thought fit not to confirm the Sentence. [P 30. N 165, 168 to 171.] The Chief Justice's Charge to the Grand Jury. [P 34. N 172.]

RESIGNATIONS AND SUSPENSIONS.

Critical Situation of the Officers of the Military Staff of Cape Breton, in consequence of the Orders issued by General Campbell. They resign their Seats at the Council Board. [P 37. N 173.] Messrs. Hurd, Uncle and Cuyler, suspended, by Advice of the Colonial Council, for Misconduct, from acting in their respective Official Capacities (of Chief Surveyor of Lands, Collector of the Customs, and Clerk of the Council) until His Majesty's Pleasure should be known. [P 37. N 174 to 186.] Complexion of the Attorney General's Conduct. Reprobated by the Council. [P 37. N. 176, 182.]

Various Objects essentially, affecting the Prosperity of the Infant Colony which, it was conceived, merited and required on the Part of Government, an early Consideration, had been submitted, and the Results thereupon had for a long Time been anxiously expected, when on the 6th of June 1786, a Dispatch from Lord Sydney dated the 19th April preceeding was at length received.

From the glaring Misconceptions and Mifstatements contained in this Dispatch, it was now evident, that the same selfish Source of Hostility to the Ministerial Measure of colonising Cape Breton, under the baneful Influence of which General Campbell and Colonel Yorke, had unhappily lent them-

selves and created on the Spot the Perplexities above alluded to, was operating also on his Lordship and in the Public Offices at Home. [P 42. N 187 to 202.]

Captain Venture [the fittest Person in the Colony] had, in Autumn 1785, been sent, in the Government Brig St. Peter, to Rhode Island in consequence of Proposals from a considerable Number of Loyalists respecting their Removal to the Infant Colony. At the Period of his Departure, the Provisions which remained in Store were insufficient to support the Colony even a single Month, and, having repeatedly been disappointed in the Expectations held out of a Supply from England or Halifax, the Prospect from these Sources had become very dubious. DesBarres had therefore given to Mr. Venture a Credit for drawing Bills on his Agent in England to the Amount of £800, to be laid out in the Purchase of Provisions. Captain Venture, by subsequent Informations finding that, no Provisions were intended to be sent for the Relief of Cape Breton, exerted himself in the Exigency to procure as large a Supply as he could. He engaged and loaded, besides the St. Peter, three Vessels with full Cargoes of Provisions for the Colony, and, upon Account thereof, drew Bills on the Agent to the Amount of £1605. The Agent paid £800 [the Amount of the Order of Credit, debiting DesBarres' private Account with the same].

And, addressed to the Under Secretary of State a Letter, viz. "London; 16th January 1786, "Lieutenant "Governor DesBarres of the Island of Cape Breton apprehending in September last, that, numerous Loyalists and "Others employed by him in forming a Settlement on that "Island would be reduced to the greatest Distress for want "of Provisions. Conceiving it his Duty to prevent as much "as possible the then impending Calamity of Famine, "which approached very fast, directed Captain Thomas "Venture to repair to the Continent of America in quest "of Provisions, and, Mr. Venture, finding that no Supply "was likely to be sent from Nova Scotia, proceeded to "Rhode Island and there purchased such Provisions as he "could procure, and put them on Board Four Vessels, as "will appear by the Four Bills of Lading I have the "Honour to enclose, and I beg the Favour of your laying "them before Lord Sydney together with a List of Bills of "Exchange drawn by Mr. Venture upon me for the Payment of those Provisions; but, as I am not possessed of "any Fund to enable my discharging those Bills, I have to "request the additional Favour of your moving Lord "Sydney to honour me with such Directions, as his Lordship may think necessary on this Occasion.

"The most extraordinary *Opposition*, of the People and "Government of Nova Scotia, to His Majesty's Intention "in forming a Settlement at Cape Breton is made a Subject "of great Complaint in various Letters from that Island, "which, I am informed, made it absolutely necessary for "Mr. DesBarres to take the Steps he has done to prevent "the unfortunate Inhabitants of the Town of Sydney from "starving, &c.

"W. ROBERTS."

Upon which he received the following Answer, viz: "Treasury Chambers 30th. January, 1786.—Having laid "before the Lords Commissioners of His Majesty's Treasury, "a Letter from Mr. Nepean of the 18th Inst. transmitting "by Direction of Lord Sydney a Letter from you, as Agent "to Lieut. Governor DesBarres of the Island of Cape Breton, enclosing a List of Bills drawn on you by Mr. Venture, for Provisions purchased by Order of the Lieutenant "Governor for the Use of the Loyalists and Others employed in forming a Settlement on that Island, I am com-

"manded by their Lordships to acquaint you, that, *they cannot give Directions for the Acceptance of the said Bills, as the same should have been drawn by the Governor, who is alone responsible for the proper Expenditure of the Money, and best able to explain to their Lordships the Necessity of the Service, &c.*"

THO. STEELE."

Mr. Venture, [who on his Return in December to the Colony, had been by a violent Snow Storm driven off the Coast of Cape Breton, and in the utmost Danger of foundering under the Pressure of the Ice] having shaped his Course for England, had arrived at Cowes in the Isle of Wight. In the Account of his Expedition, given by him into the Secretary of State's Office, he says, "the Day before our Disaster we passed through the Road of Mainadieu, and we were informed that Governor DesBarres and the Inhabitants were in the greatest Distress for want of Provisions, none having arrived from the Time of our Departure. Should the other Three Vessels miscarry, I am afraid the Consequences will not only be distressing; but fatal." And, on the Subject of the Loyalists, proposing to resort to the Infant Colony, he stated "I estimate between Six and Seven hundred Families, the most of them, very respectable in Character and of considerable Property in that Country, who only wait for my Report from hence to dispose of their Estates in that Country and repair to Cape Breton this Spring, exclusive of nearly the total of those following the Whaling Business from Nantucket; nor can I entertain a doubt but that those will be followed by thousands."

In this Conjunction, an Order was directed to Mr. Venture, viz. "Treasury Chambers, 24th January 1786, I am commanded, by the Lords Commissioners of His Majesty's Treasury, to desire you will lose no Time to bring the brig St. Peter and her Cargo, now off Cowes, into the River Thames, and that, on your Arrival there, you will deliver the said Brig and Cargo to Messrs. Rathleigh and Co. of Garlick Hill, Merchants, who have their Lordship's Direction to receive the same, &c. GEORGE ROSE."

Mr. Venture obeyed the Order. At the same Time he humbly requested their Lordships would be pleased to consider that the said specific Cargo of the St. Peter had been purchased for the Relief of the distressed Colonists in Cape Breton, and was actually paid for by DesBarres, through his Agent, in Virtue of the abovementioned Credit of £800.

Result: The Bills, which Mr. Venture had drawn in excess of the Credit of £800, returned under Protest. Upon Intelligence thereof in America, and of the Measures which had taken place, the greatest Consternation prevailed among the Loyalists—some of whom had already disposed of their landed Property and made the requisite Preparations for their Removal to the Infant Colony—Others were on the Point of embarking—Seven Vessels were actually loaded with Families waiting only for Wind to set sail. This, together with the Non-payment of the Advances incurred by DesBarres for supporting the Colony, produced to the Opponents of the Prosperity of Cape Breton an Ascendancy as astonishing as it was unmerited and prejudicial. DesBarres had no Resource left, either for allaying the Clamour of Creditors who had supplied the Public Service, or for procuring farther Means of Existence to the People, but by proceeding to sell away a Part, and execute Mortgages for the Residue of his Property. [P 43. N 193 to 201. P 47. N 205, 209.]

THE Colonial Chief Justice and the Examiner of the Public Accounts, dispatched, with Documents of the Transactions which had taken Place, for the purpose of

minutely explaining to His Majesty's Ministers the actual State and Circumstances of the Colony and of the Expenditures, and in View of obtaining requisite Support, arrived in London in July 1786. They returned to Cape Breton in September 1787, without having effected any of the Objects.

The Chief Justice wrote that "having remonstrated on DesBarres' impending Ruin by delaying the Settlement of the Accounts, and on the Salvation of the Colony by Provisions being sent thither in Time, as the Two most pressing Objects;" he was answered, by the Under Secretary of State, that "the Papers were passing among the Ministry for perusal and Consideration, and that he would have an Hearing."

Upon farther Communications he informed, that "no Consideration of the Distress of the People, or to encourage their staying in, or Others to come to, the Colony, would be sufficient to procure them Provisions from the Crown—that it seemed determined to leave the Island to its own natural Advantages, to become populous, or not, in the ordinary Course of Events."

If really it had been the Intention to have established a Colony at Cape Breton without Expence to Government, it were much to be regretted that the Proposal submitted by DesBarres to Lord North in 1783, had not been adopted—pledging himself therein to advance all the requisite Expence therefor, and requiring only the merited Protection of Government and to be allowed Repayment from the future Revenue which must have accrued. Cape Breton, by such Measure, might at this Day have been a conspicuous Object of National Utility.—But Matters had been arranged otherwise.

Ample Support was promised, and full Reliance was placed thereon, particularly in the Article of Provisions to Loyalists, &c, who might emigrate to the Infant Colony. In the neighbouring Province of Nova Scotia, Provisions were issuing to above *Thirty thousand people*, while not a single Ration was received from Government for a similar Supply of the like Description of Individuals in Cape Breton—a Country in a State of Nature and without Resource from previous Cultivation. [P 47. N 203, 204, 206 to 208, 212.]

The said Chief Justice, subsequently declared, that "some Time after the Arrival in London of Colonel Yorke and of Mr. Hurd, being informed that Complaints against Governor DesBarres were exhibited at the Secretary of State's Office, he, without loss of Time, had applied to know, if the Information was founded, and Mr. Nepean having acknowledged that there were such Complaints in the Office, he, then had requested a Communication of them, as it was probable, when he should know what the Complaints were, he might be able to give upon the Spot satisfactory Answers thereto. Whereupon he was replied, that the Complaints would not be communicated to him; but they should be sent to the Governor in order for himself to answer them." They were not sent.—It is however the invariable Practice of Office so to do.—Justice also required it, in the View of enabling immediate Refutation, or of collecting justificative Proofs, on the Spot, in the Event of a future Trial. [P 48. N 210, 213 to 214.]

Extract of a Letter from said Chief Justice, dated London 21 November, 1786. viz: "Repeated Reports having been spread that you were, or would be, superseded, and Governor Hamilton appointed in your Place, I purposely waited on Mr. Nepean and requested to know the Truth of the Reports. He told me that Governor Ha—

"milton was to have the first Vacancy that fell; but was not appointed in your Place—that Captain Gravois was to go out in the Brig Relief to bring you to England, so soon as he should be ready for sailing. Mr. Nepean farther informed me, that you were *not to be superseded* on your coming from the Government; but there were Difficulties in pointing out who should command in your Absence—that your Friends thought it for your own Honour to come Home, as well to support the Representations made on your Side, as to obviate those against you, *the Tenour and Substance of which latter I cannot get a Knowledge of.*" [P. 49. N 222, 223.]

Extract from Chief Justice Gibbon's Narrative. "The Chief Justice had often solicited an Audience of Lord Sydney; but did not obtain that Honour until after Colonel Yorke had arrived in England and had been at the Public Offices, when he was admitted to about *an Hour's* Audience of his Lordship, who put many Questions to him, seemingly pointed to prove a Misconduct in Lieutenant Governor DesBarres and the Civil Department of the Government in Cape Breton, to which he gave Answers and such Explanations as might prevent a Misconception of Facts; but *his Lordship appeared astonished at the Relation of the Transactions and to conceive them to be incredible: after which, he could never obtain the Honour of being admitted to his Lordship while he stayed in England.*" [P. 48 N. 216, 217.]

Circumstances of peculiar Hardship represented to, and acknowledged in, the Public Offices; but suffered to operate—a Balance, of the Sum of £7364 7s. 2d., had been officially reported, by the Secretary of State to the Treasury, to be due to DesBarres on Disbursements incurred by him, previous to the 25th March 1786, for the Support of the Infant Colony, which, besides what had been incurred since that Period, *remained unpaid*—his Agent had, in February 1787, represented that the Charges, Damages and Interests on Bills unliquidated, drawn by him for the Public Service, were then accumulating a ruinous Expence at the Rate of £840 per Annum—and it was known that the Holders of these Bills intended to arrest him on his Arrival in England. [P. 49. N 220, 225, 226.]

Under these Circumstances, DesBarres received, on the 19th of July, 1787. Sundry Dispatches, transmitted by Lord Sydney in the preceding Month of April, signifying, viz.—"His Majesty, constantly inclined to view the Conduct of His Servants in the most favourable Light, always feels great Concern, when their Proceedings do not appear to him to merit Commendation."—"From Measures which have been pursued for depriving nearly the whole of the Civil Officers of the Island of their Employments and the constant Disputes and Disagreements which have taken place between you and the Military, and the Complaints which have in consequence been exhibited against you, many Doubts have been entertained of the Rectitude of your Conduct, or, at least, of your Prudence and Discretion, which neither the Reasoning contained in your Dispatches, or the Information given by the Chief Justice, are sufficient to remove: Upon these Accounts, His Majesty has thought it fit, that I should signify to you His Royal Commands for your Return to England as soon as possible, to give an Account of your Proceedings, which you will do upon Receipt of this Dispatch, leaving the Island in the Charge of the Senior Councillor, until such Time as you may return thither, or that His Majesty may determine upon naming a Successor to you."

If Lord Sydney had been pleased to advert to the Documents of the Transactions in the Colony, transmitted for

his Information, his Lordship must have felt that the imputations contained in his Dispatch against DesBarres were unfounded—and, as a Communication of the Complaints, alleged to have been exhibited, (of the Extravagancy of which it were impossible to have formed an Idea) had been refused to the Chief Justice and never imparted to DesBarres, it were not natural to have expected, that, "the Reasoning contained in his Dispatches, or the Information given by the Chief Justice," (which it appears had unfortunately not been honoured with desirable Attention) "would be sufficient to remove Doubts arbitrarily entertained of the Rectitude of his Conduct in consequence thereof."

And, in an other Dispatch transmitted by the same Conveyance, viz. "Whitehall, 5th April, 1787,—I have received the King's Commands to acquaint you that His Majesty has been pleased to appoint Lieutenant Colonel Macarmick to act as Lieutenant Governor of Cape Breton during your Absence: That Officer will very shortly proceed thither in order to relieve the Person, into whose Hands the Charge of the Island may fall upon your Departure from thence, &c.

Lieutenant Governor DesBarres. "SYDNEY."

Lieutenant Colonel Macarmick, arriving at Cape Breton, in October 1787, stated the Conditions of his temporary Appointment and Mission. Observations. [P. 50. N 224, 227 to 234.]

DesBarres on the 13th of October 1787, embarked for Europe. Having, on the 7th of December following, put into the Isle of Jersey, and considering the Predicament of the Bills drawn for the Public Service, and the Caution he had received in that respect, he felt the Necessity of taking Precautions for his personal Security. The Secretary of State having refused to grant his Requisition for that purpose, he concerted Means to land in secrecy on the Coast of England, and, after many Difficulties, reached Whitehall, in April 1788. [P. 52. N 235, 237 to 241.]

Here, it was proposed that "a Settlement, and Payment of the Balance, of the Account should immediately take place" in the Object of his personal Security, and of enabling him to recover what Portion he might of his Property, sequestered in the Hands of the Public Creditors—that Official Copies of the Complaints would be forthwith furnished to him, and an Inquiry instituted into his Proceedings, which would be decided upon without Delay. It was solemnly declared that he had not been superseded, having received the Appointment of Lieutenant Governor of Cape Breton in Remuneration for specific Services of National Utility, and that he was then the actual Lieutenant Governor of that Island: That "an Agreement had been made with Lieutenant Colonel Macarmick to that Effect, and he was referred to Lord Sydney's Dispatches, as clearly expressing Mr. Macarmick's temporary Mission. [P. 52. N 236, 242, 243.]

The Under Secretary of State having observed that several of the Vouchers (belonging to the Setts transmitted and received in Duplicates) were missing and might have been mislaid or lost in their Progress through the Offices, requested DesBarres, in the view of accelerating the Settlement of the Accounts, to complete one of the Setts, from the Triplicates in his Possession. The Preadoption of Misinformation and unfounded Matter, which had perverted the natural Course of Official Proceedings, rendered the Examination of the Accounts, extremely perplexed and painfully tedious. [P. 53. N 244 to 249.]

DesBarres was suffering in the mean Time—secluded in a Sanctuary, under incessant Perturbation from the Impatience of the clamorous Creditors—refraining from the

Intercourse of his Friends, until the promised Inquiry should remove the Stigma of the vague Imputations and Calumny. It was in this gloomy Retirement that he first discovered the clandestine Proceedings carrying on against him—a *Fabrication and Forgery*, formally addressed to, received and acted upon by, Lord Sydney—a Communication of which had been *refused* to the Colonial Chief Justice—a Copy whereof had been promised, but had not been transmitted to him, was put into his Hands by a Gentleman, whom Mr. Hurd had requested to use it for a calumnious Purpose. Thereupon, having urged with redoubled Ardour in the Secretary of State's Office for the promised Copies of the alleged Complaints—*They were not to be found!* The Under Secretary, pointing at a Desk in the Office, said “if he” could tell what Clerk or Messenger had taken them from “thence, he should immediately be dismissed.” DesBarres observed that, the same had been put into Circulation by Mr. Hurd for the past Two Years, and perhaps were at that very Instant circulating. The Under Secretary of State pretended that “it might only be a Copy which Mr. Hurd” had received from Colonel Yorke.” Some time after (in August 1788) being informed that the said Mr. Hurd was about to leave the Kingdom, DesBarres, having formally moved for his Detention in order to be confronted, was verbally answered, “You must ruin Mr. Hurd, or Mr. Hurd must ruin you.” [P 54. N 250 to 257].

Mortified at the Treatment and insuperable Delays in Lord Sydney's Office, DesBarres, [in December 1788] requested of his Lordship the Honour of a private Conference. Upon Expostulation, Lord Sydney was pleased to express an Intention, after the Settlement of the Accounts at the Treasury, of recommending him for “some *Mark of the Royal Favour*”—and his Lordship, desiring to know what were his Expectations, having appointed a certain Day for investigating and giving an Opinion on the Case, he accordingly submitted his Claim to *Reparation of Injuries, Payment, and Compensation*. No Investigation, nor Decision, took place. [P 54. N 253, 258, 260 to 262].

A Report on the Account rendered (amounting to £19,579 18s. 6d.) was sent to the Treasury, in February 1789, [P. 55, N. 259].

Mr. Hurd (on the 22d March 1789) on being questioned in respect to the *Complaints*, which he had in 1786, *formally delivered* into the Secretary of State's Office under *his own* and ten other Subscriptions, having *confessed*, in the presence of Lord Sydney, of his Lordship's Two Under Secretaries, and of DesBarres, that “*he could not support the Charges therein.*” DesBarres pointed out, among the *forged Subscriptions*, the Name of a Person, who then happened to be in London and had declared, “he would suffer his Hand to be cut off, rather than put it to such an *abominable Piece of Paper,*” and proposed to bring him before Lord Sydney. His Lordship declined to see him. [P 56 N 263 to 266, 269, 270.]

DesBarres assiduous Solicitations at the Treasury had been answered with general Expressions of regret at the Delays. It was alleged that “Lord Sydney's Reports were” so vague and indecisive that the Office could not possibly “proceed in the Business, and that it were absolutely necessary it should undergo Mr. Pitt's own thorough Examination.” DesBarres humbly requested a Communication of these Reports, or to be furnished with Extracts of the Objections alleged therein against his Claim, in order to refute the same. The Request was refused. [P 56. N 267].

At an Interview appointed by Lord Sydney on the 1st of June 1789, DesBarres, having adverted to the Per-

plexities ascribed at the Treasury to the Reports on the Accounts, lamenting the Effects of Insertions therein, undeservingly sanctioned by his Lordship's Official Authority, humbly and earnestly moved to his Lordship's Feelings the Necessity of no longer delaying seriously to inquire into the Affairs respecting His Majesty's Colony of Cape Breton—the Administration of which had unhappily been entrusted into the Hands of the Authors of the Fabrication and Forgery imposed on Government, whose Proceedings, since his Absence, had been represented to his Lordship. Lord Sydney, in Conclusion, was pleased to say, that, “on that very Day he would make Inquiries at his Office” and sent to the Treasury about the Business.” On DesBarres requesting to be informed when he should attend for a Result, his Lordship replied, that “he would send to him within Four Days.” In this Interval, Lord Sydney quitted the Office of Secretary of State, and did not send. [P 56. N 268, 271 to 281, 283, 284.]

The Secretary of the Treasury, 11 September 1789, demanded “a List of the Holders of Bills drawn by DesBarres in the Course of carrying on the Public Service, together with a Description of the several Buildings erected in Cape Breton by his Orders, in order that he might write to Governor Macarneck agreeably to the Instructions he had received from Mr. Pitt.”—Among the Proceedings which had taken place since DesBarres' Departure from the Colony, it had been represented in the Beginning of the Month of March preceeding to His Majesty's Minister, that, Mr. Macarneck in Conjunction with his Councillors [chiefly composed of the Authors of the abovementioned Fabrication and Forgery] had seized on and plundered DesBarres' Property in Cape Breton. [P 56. N 271 to 284]. The Report, which they may have returned for Mr. Pitt's Use to form an Opinion of, and decide on, DesBarres' Claim, has not been communicated to him—But from a general View of the unrepresed Proceedings on the Spot, which have nearly accomplished the Ruin of His Majesty's Colony, as well as of DesBarres' oppressive Treatment at Home, the most indelible Proofs of the undiminished Operation of a similar Influence to this Day are evident.

Having complied with the above Requisition, DesBarres was, shortly thereafter, directed to attend at the Treasury, where, Mr. Steele, having, in the Course of several Days' Examination and Investigation, gone through a Scrutiny of the Accounts and minutely compared the Vouchers with the respective Articles of Charge, expressed his Satisfaction thereof, and declared, that, “he would report to Mr. Pitt accordingly, and propose a Sum of Money to be issued, in the mean time, to allay the Impatience of the most clamorous Creditors, until the Accounts might be finally liquidated.” [P 61. N 282, 285 to 288.]

Accordingly, the Lords of His Majesty's Treasury were pleased, in December 1789, to place the Sum of £10,000 in the Hands of Bankers, and to issue Instructions to them “to discharge sundry Bills, drawn by Lieutenant Governor DesBarres in the Course of his carrying on the Public Service in Cape Breton—directing an Allowance to be made to the Holders of the Bills for *Noting, Protests, and Interests*, at the Rate of Five per Centum per Annum, from the Time the Bills were due to the Date of Payment thereof.”

Some of the Bill Holders, who had early taken Advantage of DesBarres' oppressed Situation, and made Seizures, far beyond the Amount of their Claims, of his Property

in Nova Scotia, were now extremely unwilling to yield up, on reasonable Terms, the Possession thereof: Hence, vexatious Law Alterations ensued, and an Arbitration took place, which lasted nearly Two Years. At the Conclusion of it, the Arbitrators [Sir William Dolben, Sir Herbert Mackworth, &c.] thought it incumbent upon them, to state to the Lords of His Majesty's Treasury, that, "through a long Investigation, the general Conduct of Lieutenant Governor DesBarres, during his Administration of Cape Breton, had come before them, and, that it appeared to them that he had exerted himself to establish and support the Government committed to his Charge in a Manner deserving Commendation, &c."

The Bankers, by means of the said Sum of £10,000, liquidated Bills and Demands to the Amount of £7171 16 11 having paid for Expences, noting, Protests, Interests, accrued 2828 3 1 and they presented to the Lords of His Majesty's Treasury, together with their Account, a List of residue Bills and Demands, the Payment of which had been claimed of them, and remained to be liquidated, amounting, exclusive of Expences, &c. to £6120 9s. 5d. But no farther Sum was issued to them for that Purpose. [P 63. N. 289 to 300.]

DesBarres, having in vain supplicated for a Trial on the Accusations alleged to have been exhibited against him, and suffering inexpressible Oppression from their unmerited Operation, addressed, in September 1791, a Requisition to the then Secretary of State, demanding, his Right as a British Subject and a British accused Officer—to know his Accusations, his Accusers and to have a Trial. Mr. Dundas, in Answer, was pleased to signify, that "when he was appointed to his Situation, Lord Grenville had put into his Hands a Letter which his Lordship had received from him [Des Barres] on that Subject, and another, transmitted to his Lordship by the Duke of Richmond—that, upon inquiring into the State of the Business, he found that, as far back as the 16th of September 1786, and the 21st of February 1789, Official Letters had been written to the Lords of His Majesty's Treasury respecting the Accounts—that while the Business was in that State, it was impossible for him to resume the Consideration of any Part of it, and that he would transmit the Letter he had just received to the Treasury, in order to warrant on his [DesBarres] Part a Pressure for a speedy Decision." [P 66. N 301 to 304, 307, 308].

He was now told at the Treasury, that "the Accounts with the Vouchers, which Two Years ago had been examined by Mr. Steele, would be sent to the Commissioners for auditing the Public Accounts with Directions for proceeding to settle the same without Delay." A Month had elapsed when DesBarres received an Order forthwith to lay before the said Commissioners his Account and Vouchers, which implied, that, the same, instead of being in the Hands of the Treasury, were in his own Hands. Remonstrances thereupon. At last, a Part of the Vouchers, being found in the Treasury, were transmitted to the Auditor's Office.

Upon Inspection thereof, the Commissioners directed a Number of Queries to him—demanding the Production of such of the Vouchers as were missing, which, he answered accordingly. Thereupon, he received, from the Inspector General of the Public Accounts, the following Letter, viz: "To Lieutenant Governor DesBarres. Somerset Place, 2d February 1782. I am directed, by the Commissioners for

"auditing the Public Accounts, to inform you, that, they cannot make allowance in your Account for any Sum, the Vouchers for which are lost, without an Order from the Court of Exchequer, and, that therefore you may proceed when and in such Manner as you may be advised, to obtain such an Order by Application to the Court of Exchequer, it being your Duty, either to furnish to this Board Vouchers for each Article of your Account, or to enable the Commissioners by the Authority of the Court of Exchequer to make the allowance which you claim, in Case of your Vouchers being lost or destroyed, &c." "J. WIGGLESWORTH."

Motion in the Court of Exchequer being accordingly made, a Rule was obtained (upon the declaration of the Keeper of the Official Treasury Papers) in Hilary Term 1792, and the same was immediately intimated to the said Commissioners. Whereupon they directed farther Queries, respecting the Authority and Official Formality of the Expenditure, Account, and Vouchers. [P 68, N 305, 306, 309, 310, 312, to 314].

Hopes had now been given of a speedy Determination, and DesBarres flattered himself with the Prospect of being at Liberty to repair to America in the Spring; as well, with the View of restoring the Colony, which by sinister Proceedings had fallen into Decline; as of recovering what he might of his Property, seized and laid waste by the Public Creditors.

However the Auditors were pleased again to issue a great Number of Queries—several, of which, were evidently the mere Offspring of Calumny, and others totally irrelevant. Perplexity, and vexatious Delays, created thereby. [P 71. N 311, 315 to 325].

The Secretary of State had declared that no Complaint whatever existed in his Office against DesBarres—The Auditors, after the most minute and strict Scrutiny, had also emphatically assured him, that, they entertained no sort of Doubt of the Rectitude of the Account, or of his Conduct; yet, the Proceedings did not seem calculated to accelerate the Period of Justice. Result of Remonstrances thereupon. [P 74. N 326 to 328, 330 to 332].

Upon Receipt of the following Letter, from the Inspector General of the Public Accounts, viz:

"Somerset Place 1st Feb. 1793. The Commissioners for auditing the Public Accounts, having this Day signed a State of your Account as Lieutenant Governor of Cape Breton, from the 19th November 1784, to the 13th of Oct. 1787, with a Balance of the Sum of 2213 18s. 4d., including certain Disallowances by way of Surcharges, particularly mentioned in the annexed List. I am directed to give you Notice, that, the said State will be forthwith laid before the Lords Commissioners of His Majesty's Treasury, to the End, that, if you should see good cause to submit, to their Lordship's Consideration, any Observations relative to the said Account, you may lose no Time in so doing, &c."

"To Lieut. Gov. DesBarres." "J. WIGGLESWORTH." he accordingly submitted his Observations, and, having constantly attended, he was, in August 1793, interrogated at the Treasury respecting some of the surcharged Articles, the Propriety of which was, upon Reconsideration, acknowledged. The proportional Justice, which must have ensued, if the Treasury Board had condescended to extend it's Review and weigh the farther Observations in the like manner submitted with respect to the residue Articles familiarly reported by the Auditors, remains at this Day to be accomplished. Reiterated Remonstrances. A State of residue Ar-

titles of Claim—Pretexts of Surcharge alleged—and Observations which have not been considered. [P 74. N 326, 329, 333 to 339].

Instead of the expected Result, the following Letter from the Inspector General of the Public Accounts, was received viz: "Somerset Place 16th. January 1794. I am directed by the Commissioners for auditing the Public Accounts to acquaint you, that your Account as *Lieutenant Governor of Cape Breton from the 19th. November 1784 to the 13th. October 1787*, was this Day declared by the Chancellor of His Majesty's Exchequer, with a Balance due to you from the Public, of the Sum of £.3758 15 6³—It may be proper to apprize you that the said Account cannot be finally settled until it is lodged in the Pipe Office, where the Quotus must be made out, it will therefore be necessary for you to lose no Time in applying at the Treasury and at the Exchequer Offices to discharge the Fees, which have been allowed in your Account for passing it through those Offices, for, 'till that is done, you may still remain subject to the Exchequer Process, &c: "J. WIGGLESWORTH."

[P 81 N 340, 343].

As the Rectitude of the Accounts periodically transmitted, had been disputed and hasty Measures had been founded thereon and pursued; Under these Circumstances, DesBarres resolved to postpone adducing his farther Claims, until a previous Decision on these and all Matters, involving the superior Consideration of his injured Honour, should take place. After a tedious Course of Scrutiny and the Disavowal of the injurious Pretexts, he submitted to the Lords of His Majesty's Treasury a general Statement of Arrears of Disbursements, incurred in the Prosecution of his Duty, from 1763 to 1784, and, since that Period, in carrying on the Settlement of His Majesty's Colony of Cape Breton, together with particular Accounts [accompanied with elucidatory Details, Plans and Descriptions of Settlements established, and, necessary Public Buildings erected by his Direction, in the said Colony] specifying the Articles of the Expenditure and the relative Objects of the Public Service in the Execution of which the same had been incurred, and he subjoined thereto an Estimate of Losses sustained, by Law Charges, Seizures and Devastations of Property, Interests, &c: [P 81. N 341, 342, 344 to 353].

DesBarres' Case was now confessed to be extremely hard, and, that, "its peculiar Nature and Circumstances required a Liberality of Investigation and Consideration," but it was at the same Time, "acknowledged that the Board of Treasury had in itself no discretionary Powers for redressing it,"—and that "it was the exclusive Province of His Majesty's Secretary of State, in all extraordinary Cases to which the Official Rules and Forms were found to be inapplicable, to recommend the Intervention of Equity." The Difficulty now was, how to bring the Secretary of State to revise a Mass of Matter of such long standing, and to report thereon, so as to authorize the Treasury to follow, in it's Proceedings, the Dictates of Equity according to the Merits of the Case. Here, DesBarres was advised to move for the Secretary of State's Official Letter, in order that in the mean time the Arrears of his Salary might be paid to him. Accordingly, he addressed (in January 1795) a Memorial to the Duke of Portland for that Purpose—and, subsequently, repeated his Application in another Memorial, explaining therein the Grounds of his Claim thereto, and praying to be permitted to apply his Abilities to the Service of His King and Country. Not receiving any Answer for a long Time, he

submitted for the Consideration of His Gracious Sovereign a brief Statement of his Case, and entreated that His Majesty's Secretary of State might be pleased to lay the same before His Majesty. Thereupon he was honoured with the following Letter, viz. "To Colonel DesBarres."—"Whitehall 4th June 1795. In Answer to your Memorial praying that the Arrears of Salary, which you state to be due to you, as Lieutenant Governor of Cape Breton, may be paid to you, I am to acquaint you, that His Majesty having been pleased by a Commission bearing Date the 26th Day of February 1787, to appoint William Macarmick, Esquire, to be Lieutenant Governor of that Island, the Salary of Lieutenant Governor thereof has, in the usual Manner, of Course been paid to him from that Period. I should have been glad, if your Memorial had been on a Subject, admitting a more satisfactory Answer, &c: [P 85. N 354 to 358, 360.] "PORTLAND."

Upon Receipt of this Intelligence, inconsistent with the Tenour of all preceeding Official Informations, Declarations, and Facts, he again remonstrated and repeated to the Duke of Portland his Instances for officially laying his Memorial before the King and for receiving His Majesty's Royal Pleasure thereon. The Proofs which, in a Case in Point, himself had witnessed of His Majesty's gracious disposition to revise and generously to rectify Official Proceedings, however formal and solemn, and even to recall Appointments passed under His Royal Seal and Sign Manual, upon discovering their Inconsistency with His Royal Justice or Humanity, left no Doubt, that, when His Majesty's Attention should be moved, the injurious Points of his *unexampled Case* would of course be rectified. [P 87 N 359, 361, 363 to 366].

An Umbrage in the mean time arose from a Circumstance which took place—Sir William Dolben, who, on Information of Matters, had, from humane and generous Motives and from a Regard to the Honour of Government and of the National Interests, frequently urged, to the Ministry, the Necessity of taking up the Consideration of the deplorable State of His Majesty's Colony of Cape Breton, and of investigating the Causes of the extreme Oppression under which DesBarres laboured—finding his Applications unavailing, at last, had pledged himself in Parliament to move for a general Inquiry therein. The Motion, being brought on, was opposed by the Chancellor of His Majesty's Exchequer—he said that, "all the just Claims of DesBarres were nearly satisfied," and, in support of his Assertion, read a Report from the Commissioners for auditing the Public Accounts, which stated, that "Des Barres Accounts were unvouched and unattested: so much so, as to warrant a Suspicion that a greater Demand was made by him, than he was intitled to: and, particularly so, as he had brought forward his Account for Four Years during his Government, all which had been regularly settled, &c:—"that "he thought it necessary to State these Facts to the House,"—"he was willing to lay before it the Papers relative to the Accounts; but, objected to going into any farther Inquiry." DesBarres had declared on Oath in the Court of Exchequer the Truth of the Claim contained in his Accounts and the authenticated Declaration had been given by him into the Treasury. He recurred to that Office and requested a Communication of, in order to refute, that injurious Report and the Assertions founded thereon. The Communication of it was refused to him.

After more than Forty Years arduous Service, with the Approbation of the highest Characters Naval and Military of the Age, confirmed by the Sanction of his Sovereign, if DesBarres has not been able to avert the Malignity of Slander, he was at least intitled to the Justice of an Hearing, previously to being sacrificed to the Conspiracy of weak and deluded Men. He has incessantly demanded in vain a Trial to vindicate his Honour to the World. Thus precluded from public Investigation, and unable longer to sustain the Anguish of an Idea of Delinquency in the Service of a Country he had preferred in the earliest Period of Life, and which had adopted him with characteristic Generosity, he has no resource but to state his Case, and respectfully to submit it, for being judged upon and dealt with according to its Merits.

PRÉCIS of DESBARRES' CLAIM.

Arrears of Disbursements incurred in carrying on the Surveys of the Coasts and Harbours of Nova Scotia, and in preparing and supplying Charts for the Public Service, from 1763 to 1784, [P 3 to 5.] amounting to - - - - - £.8801 16 4

Arrears of Advance incurred in the Prosecution of his Duty as Lieutenant Governor of Cape Breton, since the Year 1784, [P77 to 83.] amounting to - - - 5516 18 10½

Arrears of Salary, or equivalent Allowance, amounting to - - - - -

The Expences accrued by Law Charges, Seizures, and Devastation of Property, Damages, Interests, &c. and the Sufferings, to which, in the long Course of arduous and unremitting Exertions he has unhappily been subjected—together with the Disappointment of Military Promotion and the acknowledged Utility of his Services, are most humbly submitted, for equitable Consideration, Compensation, and Remuneration.

11

THE CASE OF

Lieutenant Colonel DES BARRES.

1755, 1756.

DES BARRES, after a course of studies in which he had particularly applied himself to the Military Sciences, had the honor to engage in His Majesty's service under the patronage of His Royal Highness the Duke of Cumberland, Lord Ligonier, &c. and, upon being appointed a Lieutenant in the 60th Regiment of Foot, embarked in March 1756 for America; where, having raised 327 Recruits in Pennsylvania and Maryland at a considerable expence to himself, he formed and disciplined a corps of Field Artillery, which he had the honor of commanding until the arrival from England of a Battalion of the Royal Regiment of Artillery.

1757.

The town and vicinity of Skenectady upon the frontiers of Canada, being greatly alarmed by the Indians, who already had scalped many of the inhabitants; Des Barres having with a detachment of volunteers followed them up through the woods to their principal settlements, surprised them in the night, took their chiefs prisoners, secured a post, and continued among them near three months; In result they not only were restrained from farther acts of hostility; but became useful ever after: Des Barres served the remainder of this campaign under the orders of the late Lord Howe, against the French on Lake George, and (in Autumn) reconnoitered and made a report of the enemies works at Ticondaroga.

1758, 1759.

On the Expedition against Louisbourg under the command of Lord Amherst, being ordered in a van boat to land with a party, he gained an entrenchment of the enemy which greatly facilitated the debarkation of the army. In the subsequent operations of the siege, a peculiar advantage, which attended the approaches he had traced and executed with his party, occasioned his receiving the Commander in Chiefs' orders immediately to join the corps of Engineers and to do duty with them. Towards the close of the siege, General Wolfe in visiting the posts at night approved so much of his conduct in opening a *Boyeau*, (a Sappe) to the foot of the enemy's Glacis, as induced the General to recommend Des Barres to his late Majesty, and he received the King's particular commands (signified by the late Earl Chatham) to attend General Wolfe as an Engineer on his Expedition against Quebec, and Des Barres received at the same time, discretionary orders to provide such implements and stores, as might appear to him requisite in that department; and Captain Sir John Lindsay was directed to assist him in the embarkation.

After the capitulation of Louisbourg, Des Barres having incidentally obtained from French officers there, some interesting papers and plans respecting the Island of Cape Breton, Canada, &c. employed himself in the intermediate winter, to protract (from these on a large scale) a general sketch of the River St. Lawrence, with apposite observations and soundings, the utility of which in the ensuing spring gained him the general approbation, and particular friendship in many instances, of the naval commanders.

In the progress of his faithful endeavours, under the immediate eye of General Wolfe, he had obtained the strongest assurances of being speedily promoted. In the field of battle on the 13th of September he was making his report to the General on orders he had just executed, when that regretted Hero received his mortal wound.

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He continued in the line of an Engineer under Marquis Townshend, who succeeded to the command. After the capitulation of Quebec, he made a Survey of the town, fortifications, and environs, with a Plan of the battle fought on the 13th of September on the Heights of Abraham, and of the operations of the siege, for the Royal Inspection, and also took the soundings of the Harbour and Basin.

1760, 1761.

After incessant exertions during the course of the winter to repel the continued harassments of the enemy, by which unremitting Fatigue, shortness of Provisions, and the ravages of the Scurvy, the army had been reduced from Fourteen Thousand to less than Three Thousand Men fit for duty, he was ordered, with Five Hundred of the Light Infantry, to establish a strong post at Carouge (ten miles distant above Town). He had brought the work to great forwardness when, on the 27th of April, being nearly surrounded by Fifteen Thousand of the enemy, the Detachment was recalled to Quebec.

It had now been determined to entrench on the advantageous grounds before the Town by reason of the dismantled state of the fortifications; but General Murray, the Commander in Chief, perceiving an unguarded disposition of the enemy, was tempted to give battle. Above one third of the army were killed or wounded, and among the latter was Colonel Mackellar (the Commanding Engineer,) and being totally disabled for the remainder of the campaign, Des Barres's exertions and conduct, in the defence of Quebec, became essentially important and were attended with complete success.

In the residue of this campaign he was employed in the reduction of Fort Jacques Cartier, and the posts higher up the River St. Lawrence.

The conquest of Canada being concluded, he was ordered to Nova Scotia, with General Bastide, to take surveys and sections, and to trace designs and calculate estimates of the expence of fortifying the Harbour and securing the Dock Yard of Halifax---a task intricate and difficult.

1762.

He served in the capacities of an Engineer and Quarter Master General, on the Expedition for retaking Fort St. John in Newfoundland, under the command of the late General Amherst; where he had the honor to be thanked as having essentially contributed to the fortunate issue against an enemy much superior with respect to number, situation, and other circumstances.

After taking surveys of some of the principal Harbours of that Island, which were transmitted, with his designs for their defence, to the General at New York, he returned to the employment of an Engineer at Halifax.

This achievement of General Amherst having closed a war that raised Great Britain to the zenith of fame and consequence; Des Barres has only to observe, that Amherst, Wolfe, and Townshend, the distinguished commanders of that period, condescended to honour his exertions and services, with their approbation, and he has ever since received repeated and uniform proofs of regard and friendship from the two last.

1763.

SURVEYS OF THE COASTS AND HARBOURS.

After the cessation of hostilities, Rear Admiral Spry, who had served several years and then commanded His Majesty's ships in that country, represented to the Admiralty that Nova Scotia abounded in fine harbours capable of containing large fleets, many of which were only known to a few Fishermen, and it would be highly useful to navigation in general as well as to His Majesty's service in particular, to have careful surveys and correct Charts of the American Coasts and Harbours. Having proposed the undertaking to senior Officers, who declined it on account of the difficulties, he mentioned Des Barres to the Admiralty as an Officer qualified to undertake it.

In the mean time Des Barres, had repaired to Head Quarters in New York, by order of the Commander in Chief Lord Amherst, who, he understood, had an idea to employ him in excursions to different parts of the Colonies, with a view to report military observations of the grounds; but his Lordship returned to England, and was succeeded by General Gage.

Admiral Spry was succeeded also, in the Command of the Squadron by Lord Colvill, who, having received instructions from the Admiralty to employ Des Barres in the survey projected by Admiral Spry, wrote to General Gage for leave to him to undertake it.

1764,

1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773.

Des Barres no sooner arrived at Halifax accordingly, that he was set to commence, with the strongest assurances, of being rewarded in a manner adequate to his diligence and ability and the value of the performance, and that it would tend to promotion in his Military Profession.

The Admiralty agreed to pay him 20*s.* a-day, and allowance for Contingencies, Instruments, Stationary Ware, &c.

He persisted for Ten Years in carrying on a service, replete with dangers, accidents, losses, labor, expence, and utility. In the course he was honored with the highest approbation of Lord Colvill, and all the succeeding Commanders, Lord Hood, Admirals Gambier, Montague, &c. and the Earl Egmont, who presided at the Admiralty, acknowledged every specimen of the execution transmitted to the Board with expressions of his "Obligations for the same, and of his duty as a faithful "servant of His Majesty and the Public, to give every encouragement in his power to forward a "service of such National Importance."

1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783.

Upon his return to England, His Majesty was graciously pleased to express high commendation of the Performance, and His Royal commands to publish it for the benefit of the public and of posterity. The Officers destined to conduct the Fleet in the reduction of the Colonies, being also desirous of correct Charts of the North American Coasts from Florida to the Gulph of St. Lawrence, Des Barres became involved in the intricate task of selecting, correcting and adapting, the surveys of others to Nautical Purposes, and of publishing the whole under the title of the Atlantic Neptune, which cost ten years more of incessant labor. (1)

In the course of the war, and of the publication, the respective parts of the Atlantic Neptune had in instances of the most critical occasions been the means of saving the Fleets and Armaments of this Country (2). It has benefited commerce in millions and will continue to do so, while the trade of that country and a knowledge of its navigation shall be of any importance.

In the latter period of the work, finding his pecuniary circumstances embarrassed by the balance remaining due of the necessary expence incurred; and by the reduction of his resources through plunder and

(1) Earl Howe, having represented the immediate necessity, for the operations of war then carrying on in America, of Charts to be composed, engraved and prepared, for being forthwith supplied for the service of the Fleet; Des Barres, in pursuance of His Majesty's Royal Commands signified to Lord North, (First Lord of the Treasury) accordingly proceeded under the directions of his Lordship, and of the Board of Trade and Plantations, to which the Treasury had consigned him) with unremitting assiduity and employing all means of assistance and expedition in his power; and thereby accomplished the duty so imposed on him.

(2) The Invincible of 74 guns under the command of Admiral Evans, and her convoy, to Newfoundland, having their reckoning deranged by continual storms, currents, and fogs, were on the point of running a-shore on the Isle Sable; but, discovering the dangers from the soundings and descriptions of the bottom, given in the Atlantic Neptune, they altered their course in the critical moment.

The relative part of the Atlantic Neptune were of great use to Earl Howe, in opposing off Rhode Island, and the Nantucket Shoals, Count d'Estaing, who was embarrassed by the want of similar advantage, which, not even the American Pilots had it in their power equally to supply.

The Phoenix, ordered to Boston under the command of Sir Hyde Parker, had had an almost continued storm for three weeks, in which it was impossible to take an observation: finding himself in soundings, all the Journals of the ship were examined, and from thence it was concluded they were off Cape Cod; but Sir Hyde Parker, comparing the quality of the of the bottom with the description of the soundings marked in the Atlantic Neptune, conjectured, what was truly the case, that he was off Isle Sable, and in the course of being soon a-ground; therefore, he altered his course, contrary to the remonstrance of his officers, and, while these were in constant dread of being a-shore, he arrived under an easy sail in two days off Cape Cod.

Sir Edmund Affleck and his Squadron with the convoy, was also saved on the American Coast in a manner equally remarkable—And Captain Henry Collins, in the leading ship Zebra, saved from destruction in Buzzard's Bay, the whole of the shipping and armament under the command of Sir Charles Gray, by Des Barres having incidentally met him when he was setting out to America, and furnished him with the relative part of the Atlantic Neptune, which had just then been finished.

Lord Walsingham has also acknowledged, that the Post Office has benefited, even alone by one of the Charts, more than the whole cost of the Atlantic Neptune. Such instances are innumerable. In the course of the publication it was common for Officers and Commanders of vessels arriving from America, to come to Des Barres's house to thank him for having been saved from shipwreck, by his Charts.

and the devastation of his property on the enemys frontiers in America, (3) and, seeing one of the subalterns, who had served several steps below him in the same battallion of the 60th Regiment, raised in the ordinary course to the Lieutenant Colonelcy of it (4), and other Junior Officers advanced in proportion above him, he humbly submitted to His Majesty a statement of his services praying the reimbursement which from a mere inspection of the Performance was evidently due, the promotion he had labored for, but missed, under Lord Egmont's assurances, and adequate compensation for his losses. However, nothing was effected; and the only reward he received was a Recommendation, which His Majesty was graciously pleased to approve of, from the Board of Admiralty and from the Lords of Privy Council, for some mark of the Royal Favor, "In reward of his zeal, activity, and ability in prosecuting so useful a work (5)."

(3) Particularly in 1777, at the period of the incursions from the revolted Americans in the Bay of Fundy: These held the possession for some weeks of Des Barres's estate, (called Menaudie) they burnt many of the houses and barns, raised contributions upon his tenants, and, among others, carried off part of the stock, and two vessels loaded with the proceeds in grain. After being overpowered and driven away by the British Troops and the Militia, several hundreds of tons of hay were shipped to Boston from the premises for the use of the British Cavalry, without any compensation whatever therefore. This estate, consisting of *Seven Thousand Acres of Land*, had been brought into a forward state of cultivation, in which, as well as in the purchase thereof, he had laid out considerable sums of money.

(4) Copy of a Declaration, which General Prevost was pleased to add to the statement of Des Barres's services addressed to His Majesty, viz.

"HAVING read the foregoing statement with the Papers accompanying it, and upon the requisition of Major Des Barres of my opinion; I readily declare, that his assertions therein respecting his services, which might with propriety have been enlarged on, much to his advantage, appear to me to be justly founded; and that, instead of his being employed on extraordinary services, if he had continued to do duty with his corps, which I commanded from the beginning to the end of the War of 1756, or if he had remained attached to that particular army of which his corps composed a part, there is no doubt, but he must have been a Lieutenant Colonel in the year 1775, when the late Lieutenant Colonel Fufer obtained that appointment, who was his junior in the regiment, and who, without the smallest wish or intention to disparage the one or flatter the other, was not more the inferior in rank of Mr. Des Barres, than he was in Talents and Science, both natural and acquired.

"Barnet, 1st May, 1784.

"A. PREVOST, MAJOR GENERAL."

(5) His Majesty having been pleased to refer Des Barres's statement and prayer to a Committee of the Lords of the Privy Council, and their Lordships having requested the opinion of the Lords Commissioners of the Admiralty thereupon, the said Lord Commissioners advised the sum of £.3915 17s. 8d. to be paid to him for contingencies incurred on the Survey of the Coasts and Harbours, carried on under their own directions; but with respect to the subsequent expence, incurred in the course of adapting to Nautical Use the Surveys of others, as the same had been undertaken in pursuance of His Majesty's Royal Order to Treasury, their Lordships were of opinion that the consideration thereof did not belong to their Department.

Thereupon the Lords of the Committee, in their Report to His Majesty, after stating the sum proposed by the said Lord Commissioners to be allowed for Contingencies during the period of the Survey of the Coasts and Harbours in America, were pleased to express themselves in the following words, viz.

"It only remains for this Committee to state to your Majesty, and humbly to submit to your Majesty's gracious consideration the recommendation in favor of the Memorialist, contained in the Report of the Lords Commissioners of the Admiralty upon that part of the Memorialist's Case, which relates to compensation for his losses, and reward for his services, viz."

"WITH respect to the losses, which the Memorialist may have sustained in rank and emolument in his profession of a soldier, and in his private fortune by devoting so many years of his life to the execution of an arduous and difficult Work, which must be productive of great benefit and utility, not only to your Majesty's service, but to the Public in general. We are not competent to form a judgement of the nature of these losses, sufficient for us to estimate the amount thereof, or to propose (did it belong to us so to do) an equivalent compensation; but we are nevertheless of opinion, that the Memorialist may be deserving of some mark of your Majesty's favor, as a farther reward for his zeal, activity, and ability, in prosecuting and completing the above-mentioned useful work; if what is stated by the Memorialist is well founded, viz.—That, for works of a similar nature which, he humbly presumes, do not exceed those carried on under his directions, either in hazard, difficulty, time, or expence, sums of money have been allowed to the Surveyors, far beyond any claim made to the Board of Admiralty by the Memorialist."

That the comparative condition of their Lordship's recommendation was eminently in his favor, is apparent; on comparing the sums, which, in the period, were annually granted by Parliament for defraying the relative contingencies of persons similarly employed, with the amount incurred and claimed by him, and on considering the relative dangers, difficulties and expence, they naturally were subjected to in the execution of their respective duties.

Messieurs Holland and Debrahm, engaged in 1764, and were employed under the directions of the Board of Trade and Plantations to carry on Surveys of Land in America, (which they commenced in the following year.)

In their case, they and their Assistants had their choice, in stations and weather, without interruption or risk to their persons or apparatus; whereas, in exploring, among rocks and shoals, the channels and safe pilotage into the numerous excellent harbours, discovered by Des Barres, as well as in ascertaining the Soundings and Navigation of the Coast until then unexplored, he had to anticipate and provide for many eventual exigencies under a constant variety of circumstances—the greater

Reimbursement claimed by DesBarres, viz.

For Contingencies incurred, from 1763 to 1773, in carrying on Surveys of the Coast and Harbours in America, For Implements, Surveying and Astronomical Instruments; maintenance of Assistants, Pilots and Guides; Observatory, Drawing Offices and Fuel; repairs of Craft and replacing Ship-Stores and Provisions lost by Wrecks and Boats oversetting in the Operations of the Surveys and Soundings; &c. - - - - - 4382 3 2

For Ditto, from 1774 to 1783, in the Preparation for, and Publication of the Atlantic Neptune, viz. for Implements, Assistants and Draftsmen; House Rent and Fuel, &c. - - - - - 5475 0 0

For expence, to engrave 257 Plates of Charts and Views, (contained in the Atlantic Neptune) at 35 Guineas, according to the allowance made by Government - - - - - 9444 15 0

For Ditto to prepare Impressions for the Public Service - - - - - 1771 0 0

£. 21072 18 0

Received, By Grants of Parliament in Part of Expence incurred for engraving the above Plates, viz. In 1775, £. 3409 3 2

1777, 1473 11 6

1778, 1227 9 0

1779, 1022 5 0

1780, 1056 10 0

By His Majesty's Royal Order in Privy Council, dated 28th Novr. 1783, viz. £. 3915 17s. 8d. besides £. 166 5s. 6d.

previously received 4082 3 2 12271 1 16

Balance (exclusive of loss sustained in the advance of the foregoing sums of money, also Arrears of Salary up to the 24th June 1784, the period of his Appointment to the Government of Cape Breton) £. 8801 16 14

greater the danger, the greater was the necessity of ascertaining it with accuracy and precision. He has frequently been wrecked, with the loss of his necessaries and instruments, and has suffered great personal hardships: and, his task being far more complicated and extensive, he necessarily employed, all along, and supported, a greater number of Assistants.

Upon returning to England, Messrs. Holland and Debrahm were also similarly employed in preparing their respective Surveys for Publication; and adequate sums to defray the contingencies thereof were as before granted by Parliament annually.

Comparative Expence.

PAID for Contingencies to carry on Land Surveys, viz. for Implements, Surveying and Astronomical Instruments, Assistants, Guides, &c.

	Holland.	Debrahm.
1764, Paid in advance	1117 12 0	700 17 0
1765, Began the Land Surveys	800 17 0	800 17 0
1766, Continued ditto	984 7 0	800 17 0
1767, Ditto . . . ditto	800 17 0	800 17 0
1768, Ditto . . . ditto	1035 17 0	800 17 0
1769, Ditto . . . ditto	984 7 0	800 17 0
1770, Ditto . . . ditto	1034 7 0	850 17 0
1771, Ditto . . . ditto	1034 7 0	850 17 0
1772, Ditto . . . ditto	1034 7 0	850 17 0
1773, Ditto . . . ditto	1034 7 0	850 17 0
1774, Ditto . . . ditto	1034 7 0	1050 17 0

Ten Years Land Surveys — £. 10895 12 0 £. 9159 7 0

PAID for Contingencies to prepare Land Surveys for Publication, viz. for Implements, Assistants, &c.

	Holland.	Debrahm.
1775, — — —	1034 7 0	850 17 0
1776, — — —	1034 7 0	850 17 0

The Publication intended by this Public Expence, and the labour of Mr. Holland and Mr. Debrahm did not take place. Adapting their Surveys to Nautical Use, became a Part of the more extensive and arduous Task, which DesBarres subsequently accomplished. Vide Atlantic Neptune.

Two Years preparing Land Surveys for Publication — £. 2068 14 0 £. 1701 14 0

CLAIMED for Contingencies incurred to carry on Surveys of the Coasts and Harbours, viz. for Implements, Surveying and Astronomical Instruments, Assistants, Pilots, Guides, &c.

	Des Barres.
1763, Disbursed for Implements, &c.	132 10 0
1764, Began Surveys of the Coasts and Harbours	331 12 6
1765, Continued ditto	423 13 2
1766, Ditto . . . ditto	410 5 0
1767, Ditto . . . ditto	642 9 2
1768, Ditto . . . ditto	384 8 0
1769, Ditto . . . ditto	447 4 8
1770, Ditto . . . ditto	431 16 5
1771, Ditto . . . ditto	398 10 4
1772, Ditto . . . ditto	395 10 10
1773, Ditto . . . ditto	354 3 1

Ten Years Surveys of Coasts and Harbours — £. 4382 3 2

CLAIMED for Contingencies to prepare and publish the Atlantic Neptune, viz. for Implements, Assistants, &c.

	Des Barres.
1774, — — —	458 10 0
1775, — — —	483 5 6
1776, — — —	960 0 0
1777, — — —	853 0 0
1778, — — —	779 4 6
1779, — — —	666 0 0
1780, — — —	343 5 0
1781, — — —	313 5 0
1782, — — —	308 10 0
1783, — — —	310 0 0

Ten Years preparing and publishing the Atlantic Neptune — £. 5475 0 0

ESTABLISHING THE COLONY OF CAPE BRETON.

TO a mind turned for observation and reflection, the various scenes in the long course of service DesBarres had been upon afforded much subject, and he considered it his duty, as an officer, to lay before His Majesty's Ministers such points as appeared to him susceptible of improvement for the national advantage.

Among others of that tendency, he had suggested a measure, peculiarly adapted to this great maritime country, and capable of being productive of the most important advantages to His Majesty's service, and benefit of navigation and commerce; the execution of which he was led to expect the honor of conducting, should Earl Howe, who had highly approved thereof, come to preside at the Admiralty Board. But Ministry, in the mean time coming to the resolution of forming a Government, and carrying on the settlement of the Island of Cape Breton, the utility and expediency of which he had some years before suggested also, and having been pleased to recommend him to His Majesty for directing the several operations of it, he relinquished the prospect of greater benefit to himself from his Lordship's intentions; which would have placed him in a permanent situation, wherein the faithful exertions of his talents must have proved of essential utility to the public.

Government, in this period, paid much attention and experienced considerable difficulty and expence in providing an asylum for the loyalists, and the disbanded troops, and multitudes, which the unhappy War in America, and the loss of employment at the Peace, had reduced to circumstances of extreme distress. Upon the ascertainment and enforcement of the Navigation Laws in 1784, great numbers on the coasts of the American States, had discovered a wish to repair under His Majesty's Government, particularly the whole Inhabitants of Nantucket, Martha's Vineyard, &c. in order to carry on the Whale Fishery in the Gulph of St. Lawrence, and the seas adjacent to Cape Breton, in which before the war they had employed yearly more than four hundred Vessels. This presented an opportunity of transferring to this country the advantages which France had formerly derived from the Island of Cape Breton, by the employment in its Fisheries of above three hundred topsail Vessels, fifteen hundred Shalloops, and twelve thousand Seamen; producing an annual amount of *Half a Million*, and besides other objects, susceptible of being greatly enhanced in the more energetic hands of Britons (7).

In result DesBarres had the honor of kissing His Majesty's Hand, in July 1784, on being appointed Lieutenant Governor of the Island of Cape Breton and its dependencies. It was also determined

(6) Reasons on the expediency of colonizing Cape Breton, submitted by DesBarres: also estimate of the expence, elucidations, &c. given in by command of Lord North in 1782.

(7) Cape Breton, lying between 45° and 47° of N. latitude and between 59° and 62° of W. Longitude, extends 116 in length and 98 in miles breadth, contains about 2300000 acres of land; a considerable portion of which is covered with wood, and abounds in timber fit for building and the construction of shipping: The soil is chiefly of a fertile nature, yielding wherever cultivated, ample crops of Wheat, Rye, Barley, Pease, Oats, Grass and all sorts of nourishing vegetables. The whole Island is variously intersected, with rivers and lakes, several of which are navigable, and its coasts are surrounded with valuable fishing banks, and abound in bays, inlets, and conveniences for carrying on the Fishery: There are also excellent harbours of sufficient capacity for the reception and shelter of large Fleets and Armaments. The Coal Mines are an inexhaustible source of Revenue.

When in possession of this valuable nursery of seamen, France, projected to lay here the foundation of an extensive political plan of aggrandisement, in which the fishery was a prominent feature: Neither encouragement nor expence were therefore spared to stimulate adventurers in its arduous pursuit, until, by the reduction of Louisbourg in 1758, all its hopes terminated.

The situation alone, of Cape Breton, relatively to Great Britain, to the North American Continent, and to the West Indies, renders it of peculiar importance.

From its Eastern projection into the Atlantic Ocean, it derives not only the advantage of greater proximity and celerity of communication with Europe; but also, ships from thence may sail direct to any of the West India Islands; whereas, from any of the harbours of the American States, vessels in order to head the *westerly currents* and avoid falling to leeward of the Ports of their destination, are under the necessity of stretching out as far Easterly as the longitude of Cape Breton before they can attempt to shape their course for any of the said Islands. This unrivalled situation is obviously the fittest and most convenient of any in North America, for establishing an *emporium* of commerce as well as a *place of arms* and *rendezvous* for enterprises; and, whether in the view of improving the national interests, or of securing the enjoyment of permanent tranquillity and peace to His Majesty's transatlantic Dominions, Cape Breton, if duly considered, therefore will appear in the light of an object deserving the serious attentions of Government.

determined that he should be invested with the command of the Troops and Garrisons to be stationed there, and in the contiguous Island of St. John. Accordingly a warrant was directed to him, authorising him to appoint general court's martial, for the punishment of any soldier or officer, for mutiny, desertion, or any other offence against military discipline. And he was furnished with the orders for the conducting of the hospitals, the pay and cloathing, and all other military concerns which come under the inspection and controul of a Commander in Chief (8).

He considered the motive of his appointment to the Lieutenant Government to have arisen, from the great pains it was known he had taken to be informed of the nature of that country, as well as of every circumstance respecting it, and from the experience he had acquired in forming settlements in the neighbouring Province of Nova Scotia.---Also as a mark of His Majesty's gracious favor for his labours, recommended in the above mentioned Reports, as well of the Lords Commissioners of the Admiralty as of the Lords of the Privy Council, and graciously approved in the Royal Confirmation thereof; and he construed the idea of joining the Military to the Civil Command, as obviously intended to compensate the feelings of his retrospective disappointments, and a prelude to the confirming the *Rank* which he had lost by being employed in the manner above related.

In

(8) The Secretary at War having afterwards suggested a delicacy towards the feelings of an old officer then, commanding the troops at Halifax, and wishing DesBarres to acquiesce "in the military command being continued to him during the very short time he was to remain in that country," and as it might also tend to DesBarres acquiring, in return for such gratification, useful informations for the benefit of the service, he the more readily acquiesced therein: whereupon he received the following Orders, viz.

"War Office, 23d. August, 1784.

"SIR,

"HIS Majesty having been pleased to direct that you should forthwith repair to the Island of Cape Breton as Lieutenant Governor thereof, I have the honour to acquaint you, that His Majesty has thought proper that Major General Campbell, should continue in Nova Scotia as Major General, commanding the forces within His Majesty's dominions in North America lying on the Atlantic Ocean, and that he has received directions to detach from the troops under his command one Regiment of Foot, which is to be stationed at such posts as shall be judged requisite in the said Island of Cape Breton, making a detachment of two companies to the Island of St. John's.

"In order to prevent any ill-consequences that might arise from the line drawn between your station and the Officer commanding the troops in your district of Government not being clearly understood; I enclose to you an *Extract of His Majesty's Instructions* on that subject, and the regulations therein set forth will clearly point out you, that all orders to the troops stationed within your district of Government should be issued by the Officer commanding them, to whom, agreeably to His Majesty's Instructions, you are empowered from time to time for the benefit of your Government, to give orders for the marching of troops under his command, the disposition of them, the making and marching of detachments, escorts, and such purely military services; but that you are not to interfere in any respect with the detail of the regimental duty and discipline.

"These regulations, you will however observe, exist only in their full extent while Major General Campbell may have the command by virtue of his letter of service; but, in case of his removal, the command over the King's troops within your district of Government, so long as they shall be commanded by an Officer of an inferior rank to that of a Brigadier General, must be vested in you, and of course all General Orders must issue under your direction and be punctually obeyed, but at the same time, it is not intended that you should interfere with the regimental discipline or economy of the troops.

"I send you herewith a state of the establishment of such *Garrison Officers*, as His Majesty has thought proper for your Government.

"J. F. W. DesBarres Esq.

"I have the honour to be,

"Lieut. Governor of the Island of Cape Breton."

"GEO. YONGE."

Extract of His Majesty's Instructions.

"IN cases where no specific orders have been given by the Commander in Chief, or by the General commanding in the district, the Civil Governor in Council, and where no Council shall subsist, the Civil Governors may, for the benefit of his Government, give orders for the marching of troops, the disposition of them, for making and marching detachments, escorts, and such purely military services, within his Government, to the Commanding Officer of the troops, who is to give proper orders for carrying the same into execution, provided they are not contradictory to, or incompatible with, any orders he may have received from the Commander in Chief, or the Brigadier General of the district; and the Commanding Officer is from time to time, daily to report with all convenient speed, to the Commander in Chief, or to the Brigadier General, such orders which he shall have received from the Civil Governor.

"That the Civil Governor of the Province shall give the word in all places, where he shall be within his Province, except when the Commander in Chief, or Brigadier General, shall be in the same place.

"That the state and condition of the troops, magazines, and fortifications, shall be made to the Governor as well as to the Commander in Chief, and Brigadier General.

"That the Civil Governor is not to interfere with the detail of the military regimental duty and discipline: the reports concerning which are to be made to the Commanding Officer, who is to make his general report to the Civil Governor.

"When the Commander in Chief, or Brigadier General, shall be present, all military orders are to be issued by them only."

Garrison Officers which His Majesty has been pleased to appoint for DesBarres Government.

" ISLAND OF CAPE BRETON.			Pay per diem.	" ISLAND OF ST. JOHN'S.			Pay per diem.
" Lieutenant Governor	—	J. F. W. DesBarres		" Lieutenant Governor	—	Thomas Paterfon	
" Town Adjutant	—	Thomas Moncrieffe	5s. od.	" Town Adjutant	—	John Macdonald	5s. od.
" Barrack Master	—	Thomas Moncrieffe	4 0	" Barrack Master	—	John Macdonald	4 0
" Commif. of Stores and Provisions	—	Gregory Townsend	10 0	" Commif. of Stores and Provisions	—	H. W. Perry	20 0
" Chaplain	—	Benjamin Lovel	6 8	" Surgeon	—	Dr. John Caleff	7 6
" Surgeon Physical	—	Dr. William Smith	10 0	" Chaplain	—	Richard Grant	6 8
" Commissary of Musters	—	J. E. Boisseau	10 0				

In these ideas he embraced the situation with the most perfect satisfaction and gratitude for the justice so far to be done to him, as well as with sanguine hopes, animated with ardent zeal, that to promote so essentially the public benefit, he would enjoy the support of Government and His Majesty's approbation, in a degree proportionate to the success of his faithful efforts

A Mr. Cuyler pretending to be an Agent for an *association of loyalists* in Canada, had arrived in England with a proposal to the Ministry for bringing six hundred and thirty-two Families of that description of settlers to the New Colony: Having thereupon received his commission with sundry instructions, expressing the highest anxiety for the speedy settlement of the Colony, and assurances that the encouragements given to the loyalists in the other Colonies, would be as amply extended to those settling in Cape Breton, (9) he was ordered away in haste to meet Cuyler's people, to accommodate and settle them, and all others.

He set sail accordingly from Falmouth on the 16th of October 1784, touched at Halifax in Nova Scotia (10) on the 14th of November, and in the following month landed in Cape Breton.

On his arrival, he was astonished to find that only about one hundred and twenty individuals had arrived from Canada, and among these not above twenty souls of all the number Mr. Cuyler had pledged himself for to Administration, and that, according to a letter from the Governor of Canada, expressing great indignation at his deceptive conduct, there was no room to expect more from that source; (11) but he found many had arrived from other quarters, so that the number amounted to about eight hundred.

He had been particularly directed by the Royal Instructions to issue *Proclamations*, upon his arrival in the Government, *descriptive of the natural advantages of the Island*, for the inducement of settlers, (12) this brought as early as possible an accession amounting between *three and four thousand people* (13).

In a country, however cherished and flourishing formerly; yet lying near thirty years in a dismantled and desert state, and having a severe and long winter, much difficulty was to be encountered: the bulk of the people being of the neediest class with respect to the ability of providing provisions, cloathing and buildings, and clearing the woods. It was necessary at least for two or three years to furnish them with provisions, and all the aids, which Government usually allowed in similar circumstances, even in the established Colonies.

The first pressing idea was to take measures for their preservation: the situation of the Officers of the Civil Establishment was also to be attended to, and accommodation for doing the public business was wanted.

He did his best, in the course of the first hard winter, hard to him in every sense of the word, in providing as well as circumstances would admit for the objects alluded to: when the Spring came, the site of the Town was cleared; the town lots were surveyed and laid out; locations of land were made; and the Public Buildings were commenced, and subsequently finished, upon the *Plans* given into office (14).

He reported the state and circumstances of the New Colony and his proceedings, depending that the promised supplies, particularly the *provisions* would infallibly arrive with the advance of the season.

(9) *Extract from Lord Sydney to DesBarres, dated 27th September, 1784.*

"THE same *encouragements* given to His Majesty's loyal subjects, who have retired from the United States of America into the Province of Nova Scotia; are extended to those who may chuse to settle in your Government."

"Nothing remains for me to add, but to assure you, that you will find me always disposed in my department to facilitate any measure which you may represent, and which appears to be, for the good of His Majesty's service, and the prosperity of His subjects under your Government."

The loyalists and disbanded troops of all ranks and descriptions, settling in Nova Scotia, Canada, New Brunswick, and the Island of St. John's, were allowed provisions for three years, and cloathing for themselves and their families, lumber and materials for erecting and finishing ordinary farm buildings, tools and implements for clearing the land and laying down the crop thereafter, &c. &c.

(10) Here, he felt great happiness in the opportunity of reviewing the progress of a country which had essentially benefited by his public and private exertions, as well as in the renewals of friendship and universal declarations of personal attachment to him.

(11) Letter from Sir Frederick Haldimand to DesBarres, transmitted to Mr. Nepean, in order to caution the Secretary of States Office, against misrepresentations.

(12) Royal Instructions.

(13) Descriptive List of 3379 Settlers.

(14) Accounts of Expenditures given into Office, together with statements of labour and services performed, Explanatory Plans, No. 1, to No. 46, with Elevations, &c. of Barracks, Magazines, Public Offices, &c. &c.

season. (15) He transmitted the accounts of the expenditures he had incurred, together with an *Estimate of the current expence* that appeared to him necessary farther to be incurred (16), and proposed at the same time a method, conducive to perspicuity, for the reimbursement of all manner of necessary supplies, and for building materials universally allowed to the loyalists and disbanded troops; which was, to give bills on his agent, and to transmit quarterly accounts of that part of the expence chargeable to the public in order to be repaid to his agent. In this manner, he drew £.3000 on the Lords of His Majesty's Treasury for expenditures incurred, and on account of expence to be incurred agreeably to the said estimate, which were paid to the agent, who wrote to him that his bills would be honored, and that he should continue to act as proposed. Relying on this implied acquiescence (17) of Government, he proceeded accordingly, and, at the expiration of each Quarter, he punctually transmitted the Accounts.

The Colonial Council feeling also the necessity of securing a Supply of Provisions for the immediate exigencies of the service; until those expected from England should arrive, had advised the requisite quantity to be purchased, and bills to be drawn on the Lords of His Majesty's Treasury for the amount (18): the officer, appointed commissary of provisions and stores for Cape Breton (detained and employed at Halifax as an Assistant in the Commissary General's Department) who had previously been directed to take every Official Step to procure a proper supply; having declined to comply with the requisition, alledging his want of specific authority from Government. Accordingly Agents were dispatched to different quarters for this purpose. Afterwards, the Commissary informed the Lieutenant Governor, that he had received Accounts of provisions being sent from England, *via Halifax*, for the Colony (19)

In

(15) Dispatches to Lord Sydney from DesBarres, dated 23d Feb; 24th April; 4th June; 19th July & 18th August.

(16) Letters to the Secretary of the Treasury from DesBarres, dated 3d. August 1785, enclosing the following Estimate, viz.

ESTIMATE of CURRENT EXPENCE, viz. Surveys, clearing the Town plat of Sydney, erecting Wharfs, building Barracks, Magazines for Stores and Provisions, purchase of Materials, Pay and Provisions to Artificers and Labourers, for 91 days.									
Pay.								Per diem.	
1	Inspector of the Public Works	—	—	—	—	—	—	£.	0 8 0
1	Clerk of the Stores	—	—	—	—	—	—	0	4 0
4	Overseers	—	—	—	—	4s. each	—	0	16 0
2	Smiths	—	—	—	—	ditto	—	0	8 0
8	Masons	—	—	—	—	ditto	—	1	12 0
26	Carpenters	—	—	—	—	ditto	—	5	4 0
2	Boat Builders	—	—	—	—	ditto	—	0	8 0
4	Wheelwrights	—	—	—	—	ditto	—	0	16 0
136	Labourers	—	—	—	—	2s. 6d. ditto	—	17	0 0
184	Rations of Provisions, for Artificers and Labourers }								
22	Ditto Women and Children }								
206	Rations, at 7d.	—	—	—	—	—	—	6	0 2
								Expence, per diem 32 16 2	
								Ditto per quarter - -	
								2985 11 2	
Materials, viz.									
200,000 Feet, Timber, Lumber, Scantling for Beams & Rafters, Planks, Shingles, }								1000 0 0	
Boards, Clapboards, &c. —								300 0 0	
6000 Bushels of Lime, at 6d. —									
Total — — — —								£. 4285 11 2	

(17) Warrant, viz. dated 9th January, 1786, for - - - - - 2412 0 0
Ditto - - - 26th ditto - - - - - 588 0 0

£. 3000 0 0

GEORGE, R.

"Our Will and Pleasure is, that out of any money in your hands applicable to this service, or that may be imprested to you for the same, you do pay unto William Roberts, Esquire, or to his Assigns, the sum of Two Thousand and Four Hundred Sixteen Pounds Eleven Shillings without deduction, but upon account in manner and for the purposes following, that is to say,
"To enable him to satisfy Bills of Exchange drawn upon him by Lieutenant Governor DesBarres from Cape Breton, being on Account of the extraordinary and contingent Expences for the Public Works on that Island - - - - - £. 2412 0 0 } £. 2416 11 0
"To pay the fees attending the receipt thereof - - - - - 4 11 0 }
"And this shall be, as well to you for making the said payment, as to Our Commissioners for Auditing the Public Accounts, and all others concerned in passing your account, for allowing the same thereupon, a sufficient Warrant. Given at Our Court at St. James's, the 9th day of January, in the 26th Year of Our Reign.
By His Majesty's Command,
"W. PITT.
"GRAHAM.
"ED. J. ELIOT."

(18) Minutes of Council, on 27th, July and 3d. October 1785.

(19) Letters from the Commissary, of 20th. June; 16th. & 19th. July; 8th. & 22d. August; and 5th. October 1785.

In the month of September, (when Captain Venture the most active and experienced settler in the Colony was dispatched in the Government Brigantine, St. Peter, to explain matters to the Whale Fishers of Nantucket, Martha's Vine Yard & Rhode Island (20) who had sent deputies to examine and fix on situations adapted for their respective pursuits, and had given in Proposals for the removal of their Families and Property to Cape Breton); the Provisions which remained in store could last but a few weeks, and, as no expence would accrue on the score of Freight, DesBarres gave him a Credit of £.800 to procure a supply. Capt. Venture touching at Halifax, understood from pointed conversations with the Commissary there, that what had been held out to expectation, in the course of the preceeding summer, was not to be depended upon (21). Highly alarmed therefore at the impending fate of the increased number of the people in the approaching severe season, which would shut them up in their distresses from all manner of aid, and even arrest their flight, he hastened to Rhode Island, and there entered into Transactions for the Supply of the Colony, far beyond the limits of the Credit given to him; but his exertions were frustrated by adverse Occurrences and more fatal Proceedings.

It was DesBarres' earnest wish as well as incumbent duty, by every means in his power, to foster among all classes of individuals the seeds of industry; and such was the result, notwithstanding the difficulties actually encountered in addition (22), to those naturally arising in the formation and settlement of a New Colony, that the *Exports* of proceeds from the Fishery, Collieries, &c. (23) amounted, even in the first year, to £.40,000: and which, had the Infant Colony been adequately supported, might at this day have exceeded Half a Million annually.

(20) Appendix A. 152, B. 9, 10, 23, 24. C. 26, &c.

(21) Letter from Capt. Venture, to DesBarres, dated at Halifax, 20th September, 1785, viz.

"I met Mr. (Commissary) Townsend, and enquired whether any provisions had been forwarded to you for the supply of your settlers. He answered, No, nor did he believe that any would, as the Governor (Parr) on his verbal application had said that he had not received either orders or instructions to send you any. I told him that it was a matter of too serious importance to be neglected and set off with uncertainty after the advice you had received, which had prevented your supplying yourself by other means, and begged to know officially by letter to Governor Parr, Whether you had to expect Provisions, or not?—and forward the determination to you, without loss of time.

"Let me entreat, my dear Governor, to be very attentive and alert to baffle the insidious and malignant machinations of this place, for I can assure you that nothing is left in silence, nor any thing unattempted that can tend to the destruction of your Government."

If no improper motives had been permitted to operate on Governor Parr's mind, he would have felt in the Royal instructions to him, not only ample justification for indulging a free exercise of humanity in relieving the distresses of the Infant Colony; but also that it was His Majesty's absolute command he should do so, viz. "In case of distress in any of Our Plantations, you shall, upon application of the respective Governors thereof to you, assist them, with what aid the condition and safety of Our Province under your Government can spare."

Governor Parr, on the earliest intelligence, had expressed his aversion to the measure of erecting Cape Breton *formerly included within the jurisdiction of his Province* into a separate Government, and himself together with some of the officers of his civil establishment, and mercantile men long accustomed to enjoy a monopoly of trade in Nova Scotia, seemed hurt at its dismemberment on an apprehension that their consequence, perquisites, and exclusive profits would be reduced. Accordingly, in order to frustrate the measure, they depreciated the natural advantages of the Island, discouraged the accession of settlers, intercepted the supplies for its support, &c.; and such was their confidence, that they predicted the Infant Colony would be broken up the very first winter. *Appendix, A. 165. B. 201 and 222. C. 173, 227, 302, 306, 452, &c.*

(22) Vide note (21) also Appendix: Minutes of His Majesty's Colonial Council, pages 31 to 47, 51 to 58, 106 to 118, 216 and 127, 130 to 154, 156 to 167, 175 to 186, Documents, A: No. 165, B: No. 201, 222, 335 to 337. C: No. 11 and 12, 14 to 25, 47, 50 and 51, 79 to 81, 173, 227, 302 to 347, 452. &c. &c.

(23) Return of Exports, enclosed to Lord Sydney in DesBarres' Letter, dated 28th February, 1785.

VESSELS and CARGOES, cleared outwards, between the 8th June and the 30th November 1785, from the Ports of Sydney, Mainadieu, Louisbourg, Conway and St. Peter's, in the Government of Cape Breton.

1785.	Number of ^a			General Cargoes.								
	Vessels.	Tons.	Men.	Fish.		Oil.	Coals.	Skins.				
				Quint.	Barrels.			Caraboo & Moose	Beaver & Otter.	Matins & Mincs	Wild Cats.	Foxes
June	6	610	47	—	—	—	112	—	—	104	—	—
July	8	650	55	—	—	—	481	—	—	—	—	—
August	8	532	59	1100	—	16	364	—	—	—	—	—
September	17	809	112	3980	129	108	212	35	9	3	4	—
October	19	1442	226	18400	45	180	30	230	78	56	23	11
November	3	260	28	7100	—	—	—	—	—	—	—	—
	61	4303	527	30580	174	304	1190	255	87	163	27	11

The above is exclusive of the proceeds of the Fisheries, carried on at Gabbarus Bay, Ardoise, Baleine, Lorembec, Indienne, Brasior, St. Ann, and Port Hopd. Taken from the Custom-house Returns, Sydney, 30 November, 1785.

H. W. PERRY, Exam. Pub. Accounts.

OCCURRENCES.

IT is necessary here to state some proceedings correctly, which, by being misrepresented, have proved highly injurious to his Majesty's Service and the Public Interest.

The ship President, came into the Harbour of Sydney in October (1785) with Provisions, consigned to DesBarres by the Contractors, Turnbull Macaulay and Gregory (24). He had them landed accordingly, and placed in the Public Store under the care of the Deputy Commissary (25), acknowledging the receipt thereof by letter to the Contractors. When an issue of part of the provisions became necessary the acting Commissary refused to deliver them, and, being called before His Majesty's Colonial Council, confessed that Colonel Yorke, who had lately arrived from Halifax, and commanded six companies of the 33d Regiment, had taken from him the key of the Store, with positive directions to issue none to the Lieutenant Governor's orders (26).

Upon enquiry and communication with Colonel Yorke, DesBarres found that when it was understood in Halifax that Provisions were to be sent from England, it had been preconcerted there that Colonel Yorke should take possession of them, and dispose of them at his discretion (27).

The provisions and donations to the loyalists in Nova Scotia had been consigned, from England, to Governor Parr; who, not caring to be troubled with the charge, had resigned it to the military Commander, referring to himself to distribute the articles of Tools and Building Materials.

(24) "SIR,

"London, 6th July, 1785.

"Having entered into contract with Government to supply with provisions His Majesty's troops in Nova Scotia and its Dependencies, we have the honor to address you on the present occasion with Bill of Lading for—200 Barrels Pork, in 52 pieces of 4 lb. each, 160 Barrels Flour of 3 cwt. each, 80 Barrels Pease of 5 bushels each, 50 Firkins Butter, weighing 34 cwt. 3 qr. 9 lb. Nt. and 10 Barrels Rice, 45 cwt. 5 qr. 13 lb. Nt. shipped on board the President, Capt. Hughes, now laden and ready for sea, which we calculate more than 8 months stock for 250 men. The chief supply that we have contracted for, both for the troops and the loyalists, we send to Halifax, but we have the express commands of the Lords Commissioners of the Treasury, to forward the quantity wanted both for Louisbourg and Charlotte Town direct, of which in conformity to our orders, we have given information to Governor Parr. We flatter ourselves that the quantity of the provisions which we send will be much approved of, as we have paid a scrupulous attention to that particular and shall always make it our study to merit your approbation, by giving the troops in every respect entire satisfaction. We are very respectfully,

"Sir, Your most obedient and most humble servants,

"J. F. W. DesBarres, Esq.

Turnbull Macaulay,

"Louisbourg."

& C. T. Gregory.

(25) "SIR,

"Halifax, 5 October, 1785.

"You will wait on Governor DesBarres and take his orders in receiving into your charge and issuing any public stores or provisions he may think proper to commit to your care, as my Deputy for the use of the settlers. It is impossible for me to leave Halifax this fall. We are constantly employed in shipping very large quantities of provisions to all the outposts. I am, &c.

"Mr. Storey, Acting Com. Sydney."

"G. TOWNSEND, A.C.G.

(26) Vide Minutes of Council, on the 18th November, 1785.

(27) Extract from Brigade Major Campbell to Col. Yorke, dated at Halifax, 21st October, 1785.—"The General expects that provisions that may arrive, in which ever manner they may be consigned, or for whatsoever intended, are to be put in the charge of the Acting Commissary to be issued under your directions as Military Commanding Officer."

Whatever DesBarres might have been intitled to assume, he had carefully avoided all along interfering in any point of duty or business with the officer commanding the detachment of troops in his Government.

But with respect to the distribution of the provisions for the loyalists and disbanded soldiers, there was a superior consideration, which did not leave him the choice of consulting his personal ease, by waving it as Governor Parr had done.

The loyalists were an accession of people to Nova Scotia, a Colony already settled, established, and demanding no farther direction, or exertion of the Governor, than the common administration upon common principles. Cape Breton was a New Colony, for the settlement of which he had been selected; the settlement of which to be radically effected through the denomination of people in question, whose success must depend totally for some farther space of time on his attention, and on the propriety of his discrimination, direction and exertions and he had established a regular Board for ascertaining the pretensions of all claimants to a supply.

To throw the subsistence of the people upon the discretion of a military detachment, liable to be changed every other season which might or might not take the trouble to discriminate properly or impartially would be committing to chance the task he had undertaken, as well as the permanency of what he had already done. This, he felt, would be to ruin it under all the then existing circumstances: he is warranted in this assertion by the spirit and tendency of all the relative orders General Campbell and Colonel Yorke had issued subsequently: nor could he even accordingly think himself authorized to surrender his charge to them, without the most direct and explicit orders from Administration (28).

From his arrival in 1784, to the period in question, while, a constant famine was known to rage in the infant Colony, so little did the General consider himself to be connected with the loyalists and disbanded soldiers in it, that he did not so much as to enquire into their situation; not even when, a few months before he had visited the detachment of troops in person, he must have observed their misery and distress. When informed by Commissary Townsend, who had frequent access to him, of their situation, he invariably disclaimed all charge of them—while unlimited liberality in the district of Nova Scotia extended to above 30,000 persons (29),—while the Store-rooms were sometimes insufficient to contain and preserve the provisions; and

(28) The following Order to DesBarres pointedly evinces the intentions of Government on that head, viz.

"SIR,

"Treasury Chambers, 31 Aug. 1785.

"Mr. Thomas Uncle and Mr. Brown, who have lately been appointed Collector and Comptroller of the Customs in the Island of Cape Breton, having represented to the Lords Commissioners of His Majesty's Treasury, the extreme difficulty of procuring in that Island the provisions necessary for their support during the ensuing winter, and their Lordships having upon consideration of the peculiar circumstances attending their case, been pleased to consent that the Collector and Comptroller of the Customs should receive provisions for themselves and their families, according to the ration issued to the loyalists under your Government; I am commanded by their Lordships to signify the same to you, and to desire that you will give the necessary directions for that purpose.

"J. F. W. DesBarres, &c. &c. &c.

"GEORGE ROSE."

(29) Extract of a Letter from the Commissary, dated at Halifax, 16th July, 1785.—"I am on duty here, having provisions for above 30,000 people to go through my hands, and General Campbell has directions to continue the Commissaries employed in that duty till farther orders, &c."

the infant Colony would have been rendered happy and contented by a distribution of the damaged quantities, which have been disposed of at public sale, or thrown away.

He employed every possible remonstrance with *Colonel Yorke* in vain; being now upon short allowance, and, even that, on the point of being exhausted, he had reason to apprehend the violence of a famished people, and he thought it his duty to prevent it by *civil process*, which he hoped *Colonel Yorke* knew better than to offer resisting by military force, and would prove a full justification for not complying with the inapplicable orders of the General.

Accordingly at a council held on the 18th. November, an order (30) was directed to the Provost Marshal, com-

(30) Order in Council, to the Provost Marshal.

"THE GOVERNOR finding himself in want of provisions for the supply of persons employed in the public works, and others entitled by His Majesty's orders to such supply; without which His Majesty's service must be obstructed, and many of his faithful subjects in this Island in danger of starving, or being compelled to quit the Island and abandon the Settlement, by which His Majesty's gracious intentions and the national interests, and advantages in forwarding the Settlement of this part of the British Dominions may be obstructed or wholly defeated, and that Mr. Storey (to whom had been entrusted a quantity of provisions received by the Brigantine President consigned to His Excellency) had refused to open the Stores upon the Governor's orders wherein the same are deposited, or to deliver the keys thereof to an officer sent by the Governor to inspect said provisions, or to obey the Governor's order in making any issue of those provisions; His Excellency the Governor orders that David Taitt, Esq. Provost Marshal of this Island, for this purpose specially appointed, do immediately demand and take possession of the said provisions and issue the same according to such orders as he shall receive from his Excellency; and all His Majesty's officers, civil and military, and others His Majesty's subjects are hereby required and commanded to be aiding and assisting to the said David Taitt, in this service as they will answer the contrary at their peril. His Excellency farther commands, that this his Order be entered on the Journals of His Majesty's Council of this Island of Cape Breton as of this day, and that an attested copy thereof be delivered to the said David Taitt, as his public warrant and authority. Sydney, November 18th, 1785.

"J. F. W. DESBARRES."

"A. Cuyler, Clerk of Council."

(31) *The Provost Marshal's Report.*

"CAPE BRETON, ff.

"IN CONSEQUENCE of an Order from His Excellency Governor DesBarres to me, directed bearing date the 18th of this present month of November, I called on Mr. Storey the Acting Commissary for issuing provisions at this place, and demanded of him the key of the store, in which the Provisions consigned to His Excellency by the Contractors were deposited.—Mr. Storey said, that *Colonel Yorke* had the key in his possession. I then waited on *Colonel Yorke* and demanded the key of him, which he absolutely refused to deliver, and asked me if I had a written order for demanding the key; I answered Yes, and shewed him the Order; on which he desired me to leave it for his consideration; I offered to read the order to him, but said I could not leave it. He refused hearing it read, and desired a copy; which I promised to send to him, and have done so. I then asked him to order the troops to assist me in opening the door of the Store; which he refused and said, if any under his command assisted in opening the Store, he would give them Ten Thousand. I asked him if he would oppose me in opening the door; he answered that he would to the utmost of his power, and that he would not allow the Governor an ounce of provisions on any pretence whatever. Sydney, November 19th 1785.

"D. TAITT, P.M."

Extract of a Letter from *Colonel Yorke* to DesBarres dated 3d. December, 1785.—"You mention that I had declared I would employ the military force to oppose your officer, I must request, Sir, you will believe that whosoever was the author of that report has made a false, malicious, and wicked, assertion."

Extract of a Letter from DesBarres to *Colonel Yorke* in reply, dated 5th Dec. 1785.—"The conclusion of your letter contains an high official and criminal charge against the Provost Marshal of this Island, of being guilty

manding him immediately to demand, and take possession of, the provisions sent by the Contractors, and to issue them according to such orders, as he should receive; and all His Majesty's civil and military officers and subjects were required to assist him in that service at their peril.

The Provost Marshal attended *Colonel Yorke* with the order demanded the key, and that the troops should assist him in opening the door of the store. The Colonel refused with a declaration that, if any under his command assisted, he would give them ten thousand lashes, (31) &c.

"of having made a false, malicious and wicked assertion. I, of course, thought justice required me to communicate this charge to that officer; and, in justification of him in his Report and the execution of his duty, I have the honour now to enclose to you a Copy of his (*the Provost Marshal's*) Return and Report in consequence of my Order and Warrant to him, which Return and Report is since farther and fully verified by Depositions, taken before His Majesty's Chief Justice of this Island, by my directions at the instance and request of Mr. Taitt."

Affidavit of the Provost Marshal before the Chief Justice.

"IN CONSEQUENCE of the following paragraph of a Letter from *Colonel Yorke*, commanding six companies of the King's 33d Regiment of Foot, to His Excellency Governor DesBarres, dated the 3d day of December 1785, viz.—"You mention that I had declared, that I would employ the military force to oppose your Officer, I must request, Sir, you will believe, that whosoever was the Author of that Report, has made a false, malicious and wicked assertion;—communicated, by the Governor, to David Taitt, Esq. Provost Marshal of the Island of Cape Breton and its Dependencies, who had made official Report to His Excellency, respecting an opposition given to him in the execution of his office, on the 19th of November last. The said David Taitt, to justify himself from having made a false, malicious and wicked assertion, as charged in *Colonel Yorke's* Letter, requests that his own deposition may be taken; as likewise those of Lieutenant William Norford, and Lieutenant and Adjutant Fox, of the 33d Regiment.

"The said David Taitt being sworn on the Holy Evangelists of Almighty God, deposeth as follows:—That having an Order or Warrant dated the 18th day of November last, from His Excellency Governor DesBarres to demand the Provisions received by the Brigantine President, consigned to His Excellency by the Contractors; the Deponent in pursuance of the said Order or Warrant, applied to Mr. Storey for the same, Mr. Storey said that *Colonel Yorke* had the key in this possession; he this Deponent then waited on *Colonel Yorke* and demanded the key of him, which *Colonel Yorke* absolutely refused to deliver, and asked the Deponent if he had a written order for demanding the key, who answered Yes and shewed him the order; on which *Colonel Yorke* desired him to leave it for his consideration, the Deponent offered to read the order to him; but said he could not leave it. *Colonel Yorke* refused hearing it read, and desired to have a copy thereof; which the Deponent promised to furnish, and did send to him about ten o'clock the same morning; he then asked *Colonel Yorke* to order the troops to assist him in opening the door of the Store which he refused, and said if any under his command assisted in opening the door he would give them Ten Thousand; the Deponent then asked, if he would oppose him in opening the Store, he answered that he would to the utmost of his power, and that he would not allow the Governor an ounce of Provisions on any pretence whatever. This Deponent further declares, that on the same day he was informed that the Centinels on the Store were doubled and an Officer's Guard mounted there.

Sworn at my Chambers at Sydney Shed, "D. TAITT, P.M."
in Sydney the 4th day of December,
in the 26th year of His Majesty's Reign,
before me. R. GIBBONS.

Deposition of Lieutenant Norford.

"SYDNEY, ff.

"LIEUTENANT William Norford, of His Majesty's 33d Regiment, Sworn.

"Question by Mr. Taitt. What Orders did you receive on the 19th day of November last, when you was sent to command the Guard at the Provision Store, in which the provisions consigned to Governor DesBarres were deposited?—Answer. To take the command of the guards and to suffer no one to go into the Store, but those authorized by *Col. Yorke*.

DesBarres was unwilling to go to extremities, and matters continued in a state of suspense, 'till the 6th. of December, when word was brought that the Brigantine Brandywine, had arrived with about 40,000 Rations of provisions, consigned by Commissary Townsend to his Deputy (32), the inhabitants being under the most serious alarm

“ Q. From whom did you receive those orders?—A. First, from Mr. Fox; afterwards, from Col. Yorke.

“ Q. If I had gone to the Store and demanded admittance, would you in consequence of the orders you had received have opposed me?—A. Yes.

“ Q. In what manner would you have opposed me?—A. That would have depended on the manner in which you came.

“ Q. In case I had shewn the Warrant or Order from the Governor to take possession of the said Provisions, would you have opposed me with the guard, in consequence of the order you had received from Colonel Yorke?—A. I should have covered the door, so that no one should go in.

“ Q. Were there any barrels of pork or other provisions laying without the Store when you took the command of the guard?—A. Yes.

“ Q. Did you receive any orders respecting them?—A. None.

“ Q. Would you have suffered me to have taken them?—A. No.

“ Q. Were they removed, and when?—A. They were, on the day I was on guard.

“ Q. By whose orders were they removed?—A. I believe by the Colonel's orders.

“ Q. Where were they removed to?—A. Into the Store.

“ Q. Had you any other orders from the Colonel, in case I had endeavoured to take possession of the provision, and what were they?—

“ A. No others than, not to suffer any one to take them without his absolute orders.

“ Sworn at my Chambers at Sydney Shed “ WILLIAM NORFORD, in Sydney, the 5th day of December, “ Lieut. 33d. Regt.”

“ in the 26th year of His Majesty's “ R. GIBBONS.” Reign.

Deposition of Lieutenant and Adjutant Fox.

“ SYDNEY ff.

“ LIEUTENANT and Adjutant John Fox, of His Majesty's 33d Regiment, Sworn.

“ Q. by Mr. Taitt. Do you recollect what orders were given to you by Colonel Yorke on the 19th day of November last, for ordering an officer's guard to the Store in which the provisions consigned to Governor DesBarres were deposited?—Answer. I do.

“ Q. What were those orders?—A. That no person should go into the Store but the military without the Colonel's permission.

“ Q. To whom did you deliver those orders?—A. To Mr. Norford.

“ Q. Was an officer's guard mounted at the provision Store, preceeding the 19th day of November last?—A. No,—nor since, there has been no officer's guard mounted.

“ Q. What was the cause for delivering the orders for Mr. Norford?—

“ A. I believe from Mr. Taitt's Warrant to take possession of the provisions, and particularly from a message brought by the Acting Commissary to Colonel Yorke from the Governor, that he was determined to have the provisions against all the force the Colonel had.

“ Q. What was the name of the Serjeant who was on guard the 19th day of November last?—A. I believe it was Serjeant Coghill.

“ Q. Did you deliver him any orders?—A. I gave him the same orders as to the officer, that Nobody was to go into the provision Store but the Quarter Master and Commissary without Colonel Yorke's permission, and ordered him to remove the centinel to the door of the Store.

“ Q. As no officer mounted guard, what was the reason for giving orders to Mr. Norford?—A. He went as Orderly Officer, that as disturbance was expected from the message that had been sent, the Orderly Officer was directed to go down to the Store whenever there was occasion to open it, or in case of a tumult to prevent any irregularity.

“ Sworn at my Chambers at Sydney Shed, “ JOHN FOX, the 5th day of December, 1785, in the “ Lieut. & Adj. 33d Regt.”

“ 26th year of His Majesty's Reign, be- “ R. GIBBONS.” fore me,

(32) *Extract from Commissary Townsend to DesBarres, dated at Halifax 5th. October 1785, viz.*

“ I inserted, the 18th. August, a paragraph from the Agent's Letter

of perishing, and the troops having already eight or ten months provision in store with the cargo of the President, the Council advised a warrant to be issued to *impress* the provisions on board the Brandywine for the service of the island.

The warrant was issued, and a notice of it served upon Colonel Yorke by the Provost Marshal, containing a requisition for his giving immediate orders, that no military opposition whatever should be made to the landing and storing the Provisions but, on the contrary, that he should give every requisite aid and assistance: and that the orders for issuing the same should proceed from the Governor, as responsible to His Majesty only, with respect to the emergency and the corresponding exercise of the Royal Prerogatives delegated to him (33).

“ purporting that the Provisions would be sent here for all the different Posts; I had no doubt but the new settlers at Cape Breton were included as well as those in this Province, New Brunswick and the Island St. John's; but to my surprise I find, by after orders, that the Provisions for Cape Breton are ordered for the troops only without mentioning the New Settlers, The Treasury are long before this in possession of your requisition, which I transmitted to Mr. Rofe, and I hope will give orders for a supply of Provisions to be sent. The Governor has advice of a vessel having sailed with nine months Provisions of all species for the Garrison of Sydney. The constant employ in shipping Provisions to the numerous Outports and the necessity of my being present whenever the victualling of the Garrison is transferred to the Agent, who is hourly expected, render it impossible for me to leave Halifax this fall. As it is General Campbell's pleasure that Mr. Storey should remain as my Deputy with the troops at Sydney, I shall direct him to take your order in taking charge of, and delivering any Public Stores or Provisions for the loyalists, which you may think proper to be under the Commissary's care, and I have no doubt of his acquitting himself entirely to your satisfaction. I have the Honour. &c.

“ G. TOWNSEND, Att. C. G.”

(33) Warrant. (Appendix C. 17.)

“ BY His Excellency Joseph Frederick Wallet Des Barres, Esq. Lieutenant Governor of the Island of Cape Breton and its Dependencies, &c. &c. &c. To David Taitt, Esq. Provost Marshal of the said Island and its Dependencies, Greeting:

“ WHEREAS His Majesty's service and the subsistence of His faithful subjects Inhabitants within this my Government, during the approaching Winter, necessarily requires that I should have a quantity of provisions in store to prevent their perishing; and whereas I am informed that a certain vessel lately arrived in the Harbour of Sydney, called the *Brigantine Brandywine*, is laden with provisions: And whereas large quantities of provisions, ordered by me to be provided and shipped for this service have not arrived: and, from the advanced season of the year, it is doubtful whether they will arrive in time to prevent the impending want: And whereas a sufficient quantity of provisions is already landed and stored in this Island for the subsistence of His Majesty's troops therein stationed, until the middle of July next.—I have thought fit that the provisions now laden on board the said *Brandywine*, should be impressed, landed, and put into Stores in this my Government, subject to my further orders and directions, for His Majesty's service in this my Government.—You are therefore hereby in His Majesty's name authorized, required and commanded, forthwith to enter on board the said *Brigantine Brandywine*, and impress and take into your custody and possession, all such victuals and provisions as you shall find therein laden, and cause the same to be landed and safely stored for His Majesty's service aforesaid under my orders and directions, giving unto the Master or Commander of the said Vessel, and any other person having the care and charge of the said victuals and provisions, or claiming right or property therein, a copy of this my Warrant, together with a Certificate and Receipt for all such victuals and provisions as you shall so impress, and take by virtue of this my warrant, and informing all such persons, that for such of the victuals and provisions as shall be private property, the owner or owners thereof shall, on application to me, and proving such their property, receive payment of the full value thereof; and all His Majesty's Officers Civil and Military, and others His Majesty's liege subjects are hereby required and commanded to be aiding and assisting to you in this service, as they will answer the contrary at

The Provost Marshal had in pursuance of the warrant left the peaceable possession of the provisions on Board in charge of his Deputy and Assistants; when he returned to proceed to unloading the vessel, he found her in possession of a party of Soldiery, who had forced away his people, opposed him, and prevented the farther execution of his duty (34).

The Chief Justice, upon the deposition of the Provost Marshal (35), issued another warrant to apprehend the per-

“ their peril. Given under my Hand and Seal at Sydney, in the Island of Cape Breton, the 8th day of December, 1785, in the 26th year of His Majesty's Reign.

“ J. F. W. DESBARRES.”

“ By His Excellency's Command, H. W. Perry.”

(34) Report on the Warrant. (Appendix C. 18.)

CAPE BRETON II.

“ IN OBEDIENCE to a warrant from His Excellency Joseph Frederick Wallat DesBarres Esq. to me directed of this date, I went on board the Brigantine *Brandywine* and acquainted the Master of said Brigantine, that I had a warrant to impress all the victuals and provisions on board this Brigantine, which warrant I read to him and gave him a Copy of the same, which he said was sufficient authority, and that he had no objection to my taking possession of the Provisions, at same time he read an order from a Mr. Brinly directing him to sail to this Port, and to deliver the Provisions to the order of Colonel Yorke, the Master said that he was obliged to go on shore to get an Anchor and Cable for his Vessel; I therefore ordered the Master to shew me the cargo, which he immediately complied with; but, not being able to count the number of casks in the hold, I demanded a list of the cargo which the mate said he had not; but shewed me the entries in the log book, by which it appeared there was on board; One Hundred and Twenty Tierces and Twenty Barrels of Flour and Forty Four Tierces and One Hundred and Twelve Barrels of Pork besides provisions for the use of Mariners, I then gave to the Mate a certificate of my having impressed the whole of said provisions, and also appointed James Menzies my deputy and left him on board the said Brigantine to take charge of and keep in custody the same: The Cable being in the hatchway prevented my securing the Hatches under lock. Given under my hand this 8th. day of December 1785, in the 26th. year of His Majesty's Reign.

“ D. TAITT, Provost Marshal.”

(35) Deposition of the Provost Marshal. (Append. C. 20.)

ISLAND OF CAPE BRETON, II.

“ PERSONALLY appeared before me Richard Gibbons, Esquire, Chief Justice of His Majesty's Island of Cape Breton and his Dependencies, David Taitt, Esq. His Majesty's Provost Marshal of the said Island, and being duly Sworn, Declares, that, having on the 8th Instant, by virtue of a Warrant under the Hand and Seal, of His Excellency Joseph Frederick Wallat DesBarres, Lieutenant Governor and Commander in Chief, in and over this His Majesty's Island of Cape Breton and its Dependencies, and for His Majesty's use and service in this Government, impressed and taken into my possession and custody, one hundred and twenty tierces and twenty barrels of Flour, and forty-four tierces and one hundred and twelve barrels of Beef and Pork; found laden on board the Brigantine *Brandywine*, at Sydney in Cape Breton aforesaid; he this Deponent left the same in the custody and charge of James Menzies, an Officer by the Deponent specially deputed and appointed for this purpose; and that, in further pursuance of the said Warrant, this Deponent with six or seven men to assist him, this morning went on board the said Brigantine, in order to unlade and put in Store the said victuals and provisions, and having ordered to unlade that part of the vessel's hatches which was not opened, that one of the seamen was endeavouring to open the hatch accordingly, until Ralph Gore, Gentleman, Lieutenant in His Majesty's 33d Regiment of Foot, with a Serjeant Brown of the same Regiment, and a number of others in appearance about eight or ten, (but the particular number and names unknown to the Deponent) appearing to be soldiers in the said Regiment, armed with muskets and fixed bayonets, with force and arms opposed this Deponent in the further execution of the said warrant and his office—by charging their fixed bayonets on the order of the said Gore, and by laying violent hands on the seaman aforesaid, and forcing him from the hatchway, and by forming and charging their bayonets in

fons concerned in this act of violent resistance to legal authority, and Colonel Yorke, in special, and all others His Majesty's subjects at large, were required to aid and assist in its execution (36).

“ such manner, that without being killed or wounded, neither this Deponent or his Assistants, or the seamen of the vessel, could execute the service, on which this Deponent was then employed. That the said Gore declared he had taken possession, and held the said victuals and provisions, and would not suffer either myself or any other person to go into the hold without his order; on which this Deponent required and commanded the said Gore, and the said soldiers in His Majesty's name to remove the force that was opposed to this Deponent, and to aid and assist him in the execution of his office aforesaid which said Gore abominably refused, and the soldiers would not obey my said order; on which this Deponent went on shore, but left his Assistants on board the said vessel, but has since been informed all his said Assistants, except the Officer he first left on board, have been by the said Ralph Gore violently forced out of the said vessel.

“ Sworn at my Chambers at Sydney Shed, “ D. TAITT, P.M.”
“ in Sydney 10th day of December, 1785,
“ in the 26th year of His Majesty's
“ Reign. “ R. GIBBONS.”

(36) Warrant from the Chief Justice to the Provost Marshal. (Appendix C. 21.)

ISLAND OF CAPE BRETON, II.

“ Richard Gibbons, Esquire, His Majesty's Chief Justice of His Majesty's Island of Cape Breton and its Dependencies in America, &c. To David Taitt, Esq. Provost Marshal of the Island aforesaid and all and every his Deputy, and Deputies and the Constables of the Town of Sidney, Greeting:

“ WHEREAS complaint hath been made to me on oath that Ralph Gore, Gentleman, Lieutenant in His Majesty's Thirty Third Regiment of Foot, together with one Brown a sergeant and other soldiers of the said Regiment to the number of three, and more, (whose names are at present unknown) at Sydney in the Island aforesaid, being armed with Muskets, Bayonets and other offensive weapons on the tenth day of December in the twenty-sixth Year of the Reign of our Sovereign Lord King George the Third, being unlawfully riotously and seditiously assembled, with force and arms to levy war against His Majesty, and oppose the execution of His laws and with force and arms did make an assault in and upon David Taitt, Esquire, Provost Marshal of the Island aforesaid and his Assistants, then being in His Majesty's peace, and in the public execution of his said office, executing of a Warrant under the hand and seal of His Excellency Joseph Frederick Wallat DesBarres Lieutenant Governor and Commander in Chief in and over His Majesty's Island aforesaid, for His Majesty's especial service, and did then and there violently and unlawfully refuse to aid and assist the said Provost Marshal in the execution of his said office, altho' by him in His Majesty's name commanded and required so to do, and did threaten the lives of the said David Taitt and his Assistants, and did violently and unlawfully with force and arms seize and take out of Custody and possession of the said David Taitt, Esq. one hundred and twenty tierces and twenty barrels of Flour, and forty-four tierces and one hundred and twelve barrels of Beef and Pork, then and there being in the custody and possession of the said David Taitt by virtue of a Warrant under the Hand and Seal of His Majesty's Lieutenant Governor and Commander in Chief of this Island and its dependencies in high contempt of His Majesty and his laws, in open violation of the said laws, and in hostile opposition thereunto and to the power and authority of His Majesty's Government established in this Island, contrary to the duty of their allegiance towards His Majesty, to the evil example of others, and to incite His Majesty's subjects to tumult, sedition treason and rebellion, against the peace of Our said Lord the King, His Crown and Dignity.

“ These are therefore in His Majesty's Name to command and require you, taking with you the power of the County and this Island, and such other force as you may judge necessary, to apprehend the bodies of the said Ralph Gore, Serjeant Brown and others the aiders, comforters and abettors, and them in safe and secure custody convey before me to answer touching and concerning the premises aforesaid and to be further dealt with according to law. And Colonel John Yorke commanding His Majesty's said Thirty-third Regiment of Foot in special, and all others His Majesty's officers and ministers civil and military and others His Majesty's liege subjects, are hereby required and commanded to be aiding

Colonel Yorke was not to be found in his Quarters; the Provost Marshal therefore, by letter, required him to deliver the bodies of certain persons specified in the warrant (37), part of the answer to which was in these words, *viz.* "I cannot think myself justified in delivering up those men

"and assisting unto you to the utmost of their powers in the execution of this Warrant as they will answer the contrary at their peril. Given under my Hand and Seal at Sydney in this Island aforesaid, this tenth day of December in the Twenty-sixth Year of the Reign of our Sovereign Lord King George the Third by the grace of God of Great Britain France and Ireland, King Defender of the Faith and so forth, and in the year of our Lord one thousand seven hundred and eighty five.

"R. GIBBONS."

(37) *Affidavit in Council.* (Appendix C. 22.)

"DAVID TAITT, Esquire, Provost Marshal of this Island and its Dependencies, Sworn:—

"*Question.* Did you receive a Warrant from the Chief Justice, for the apprehending Lieutenant Ralph Gore, Serjeant Brown and Others, granted on your complaint of an opposition made to you in the execution of your office?—*Answer.* Yes.

"*Q.* What did you in consequence of that Warrant, and have you apprehended the persons against whom it was issued?—*A.* After I received this Warrant, I went to Colonel Yorke, taking two persons to be witnesses,—to wit: Charles Cope and John Smith, I was informed first by the Centinel that he was not at home, I then went round the house and asked his servants, if Colonel Yorke was at Home?—They answered, No,—that he was gone out. The Deponent then returned to the Office of the Governor's Secretary, where he met with Captain Stewart, Captain Sherbrooke, Mr. Wynyard, and several other Officers. I acquainted Captain Stewart of having the aforesaid Warrant and of its tenor, and read it to them, and required their assistance, which they declined to give. As the Commanding Officer was somewhere here, I then gave a copy of the Warrant to Mr. Fox, the Adjutant, and desired him to give it to the Colonel, which he promised to do, but some time after he returned with the copy to my house, and told me that he had like to have got in a scrape for carrying it, as the Colonel would receive it from no person but myself. I then went a second time to the Colonel's Quarters, taking with me Henry White and Smith Woodruffe. As I approached the door, I observed Colonel Yorke sitting at a table in his Bed-chamber, I knocked at the front door for admittance. No person answering, the Centinel told me the Colonel was not at home. I endeavoured to find his servants, but could not get a sight of any of them. Knocking at the door again, two or three times, I then ordered a copy of the Warrant to be nailed to the front door, which was done. This morning I wrote to Colonel Yorke, reciting the purport of the warrant, requiring him to deliver up the persons mentioned therein; to which he returned an Answer, which was delivered to me by Mr. Fox, and which with the Copy of my Letter is now before the Council.

"Sworn in Open Council, this 11th December, 1785.

"D. TAITT, P. M."

"A. Cuyler, Clerk of the Council.

Letter from the Provost Marshal to Colonel Yorke, dated Sydney, 11 December, 1785. (Appendix C. 23.)

"BY VIRTUE of a Warrant from His Majesty's Chief Justice of this Island, for apprehending Ralph Gore, Gentleman, Lieutenant in His Majesty's 33d Regiment, and one Brown, a Serjeant in said Regiment, their aiders and abettors charged with seditious and treasonable practices. I waited on you as Commanding Officer of said Regiment; but, inquiring at your Quarters, I was told that you was not at home. In consequence of not seeing you, I delivered a copy of the Warrant to Mr. Fox your Adjutant, for your perusal; Mr. Fox returned with the copy to me, and acquainted me that you would not receive it from him; I then called a second time at your Quarters, and was told that you was not at home. At same time, I and the people with me, saw you in your Bed-chamber; being unable to gain admittance to you, I nailed the Copy of the Warrant against the Post of the Front Door of your Quarters. Having thus far executed the Warrant, I now in His Majesty's name, require you to deliver up to me the bodies of the said Ralph Gore, Gentleman, Serjeant Brown, and the party of Soldiers, that were under their command on board the *Brigantine Brandywine*, yesterday morning. I have the honor to be, &c.

"Colonel Yorke, &c."

"D. TAITT, P. M."

"who did nothing more than obey the commands of their officer (38)."

On the 11th December, His Majesty's Colonial Council taking into consideration the alarming circumstances of the Colony, and the interruption given to the civil authority by the military stationed in the Island, resolved and advised that the Governor should immediately, by Proclamation, assemble all His Majesty's subjects, so situated as to be able to give their attendance to consider and give their advice upon matters so highly interesting to themselves, and the support of His Majesty's Civil Government in Cape Breton (39).

Affairs were in such serious state that it could not be expected the subjects would submit to starve without some desperate effort to prevent it, under the circumstances of the military being in possession of 15 months provisions, to a considerable portion of which themselves had a preferable title; when Lieutenant Norford of the 33d Regiment, a young officer of moderate and conciliating disposition, founded the Governor and persuaded Colonel Yorke to meet him in the view of an accommodation.

The Result was that DesBarres agreed so far to yield his strict title, as to make a requisition for 40,000 rations by the advice of Council, for which he gave his receipt (40).

(38) *Letter from Colonel York to the Provost Marshal, dated Sydney, 11 December, 1785.* (Appendix C. 247.)

"I have just received your Letter of this days date. The Warrant you speak of I have not seen, Lieutenant Gore, I hear is gone off, having declared to his Brother Officers, that he was determined to escape from the illegal, oppressive and tyrannical proceedings going on against him, as he conceived himself only in the execution of his duty, taking care of His Majesty's Vessel the *Brandywine*, and His Majesty's provisions, consigned to the care and charge of Colonel Yorke, commanding His Majesty's Forces in the Island of Cape Breton for the use of His Majesty's Troops, Staff, Loyalists and disbanded Soldiers, by order of the Commander in Chief of His Majesty's Forces in North America. As to Serjeant Brown and the innocent men, on duty with Lieutenant Gore, may for what I know, be in the Barracks, I shall not oppose their being apprehended; and as I cannot think myself justified in giving my assistance in delivering up these men, who did nothing more than obeyed the orders of their own Officer (which they conceived themselves bound to do) to be thrown into goal and loaded with irons, which would be the consequence, charged as they are with seditious and treasonable practices. I am, &c.

"David Taitt, Esq. Provost Marshal."

"J. YORKE."

Letter from Lieutenant Gore to DesBarres, dated Dec. 12th 1785. (Appendix C. 25.)

"May it please your Excellency:—A Warrant having been issued to apprehend me, Serjeant Brown, and the party under my command, for opposing the Civil Magistrate authorized by your Excellency to take possession of the provisions on board the *Brandywine*, being then in the execution of what I conceived to be my duty and acting under the orders of my commanding Officer, I hope your Excellency and the Civil Power, will not think my conduct on that occasion was the result of a contempt of the laws, which I never would intentionally have violated, and therefore presume to beg your Excellency will be pleased to give such orders as may release our persons, &c.

"RALPH GORE,

"His Excellency Governor DesBarres."

"Lieut. 33d Regt."

(39) Minutes of the Colonial Council, holden on the 11th Dec. 1785.

(40) *DesBarres' Receipt to Colonel Yorke.* (App. C. 247.)

"Sydney, 12 December, 1785. Received of Colonel John Yorke, out of the Military Store, forty thousand rations of Provisions for the subsistence of His Majesty's subjects in my Government, which quantity I engage to replace or to be responsible for the value thereof to Right Honorable the Lords Commissioners of His Majesty's Treasury, if required.

"J. F. W. DESBARRES."

and the acting Commissary was to issue the same as it should be called for (41).

OF THIS QUANTITY, about 5000 rations were distributed and the people appeared pacified. Before there was occasion to distribute any more, a Mr. DRUMMOND (*calling himself a Lieutenant in the British Navy*) and a Mr. ANGEL (*an inhabitant of Rhode Island*) persons both unknown, came with the Brigantine Amelia, (*American built and Navigated*) having a quantity of provisions on Board, into Sydney Harbour.

Mr. Drummond produced an invoice of the cargo and a bill of lading (42) which imported that the provisions were consigned to the Governor; He said, that the vessel had been purchased by Mr. Venture in Rhode Island for His Majesty.—British Vessels having by laws recently passed there been prohibited carrying away provisions to the British Colonies, and the vessels of the state also forbidden to be hired for that purpose; and unless that measure had been adopted, the provisions could not have been obtained.

DesBarres asked, if he had any letters or papers from Venture to confirm his story? He answered, he had not: that Mr. Venture had sailed in great haste from Rhode Island in the *St. Peter*, hoping to arrive in Cape Breton before him: Angel shewed, at the same time, a bill drawn by Venture on the Governor for £525, as the price of the Vessel (43).

Drummond and Angel were brought before the Council in order to be examined on oath, and to refer the result to its advice.

(41) Letter from Col. York to DesBarres. (App. C. 247.)

Sydney, December 12, 1785.

"I am honoured with your Letter of this day's date, enclosing the advice of His Majesty's Council to you, to borrow from the Military Store forty thousand rations of Provisions, in the present pressing emergency of His Majesty's subjects in your Government, to be replaced, or the value paid to the Lords Commissioners of the Treasury, if required. I have the honor to inform you that I shall give directions to the Acting Commissary to-morrow morning to issue the above quantity agreeable to your requisition with the Advice of His Majesty's Council. I have the honor to be, &c.

Lieut. Governor DesBarres, &c. &c. &c."

"J. YORKE."

(42) Bill of Lading. (Appendix C. 30.)

"SHIPPED by the Grace of God, in good order and well conditioned by Handy and Russell in and upon the good Brigantine called the Amelia whereof is Master, under God, for the present Voyage, John Drummond, and now riding at Anchor in the port of Newport and by God's Grace bound for Cape Breton, To say, Eight Thousand, Eight Hundred and Fifty Bricks, One Hundred Thirteen and a Half Barrels of Beef, Sixteen Casks Cheese, Two Tierces and Eleven Barrels Pork, One Puncheon West India Rum, Three Hogheads New England Rum, Twelve Oxen, Forty Sheep, One Hundred Geese, Ninety-three Turkeys, Forty Bushels of Corn, Sixty Bushels of Oats, Twelve Bundles of Hay, Three Hundred and Seventy Bushels of Turnips, Potatoes, Beans and Carrots, Two Tierces Onions, One Hundred Cabbages, and Sixteen Water Casks, being marked and numbered as in the Margin; and are to be delivered in the like good Order, and well conditioned, at the aforesaid Port of Cape Breton (the Dangers of the Seas only excepted) unto His Excellency J. F. W. DesBarres Esq. Governor of Cape Breton or to his Assigns, he, or they, paying Freight for said Goods, nothing with primage and average accustomed: in witness whereof, the Master or Purser of the said Brigantine hath affirmed unto four bills of lading, all of this tenor and date: one of which four bills being accomplished, the other three to stand void: and so God send the good Brigantine to her desired Port in safety. Amen. Dated in Newport this 30th day of November 1785. quantity unknown to

"JOHN DRUMMOND."

(43) Bill of Exchange. (Appendix C. 28.)

"Exchange for £.525 ster. Newport, Rhode Island, 12th Nov. 1785. At ten days sight of this my first of Exchange, (second of same tenor and date not paid) please to pay to the order of Mr. James Angell, Five

The depositions confirmed the above account of the case (44), and the Council advised to admit the vessel to

"Hundred and Twenty-five Pounds sterling Value received; and place the same to the Account of your most obedient servant,
"To J. F. W. DesBarres, Esq. "THO. VENTURE."
"Governor of Cape Breton, &c. &c. "Endorsed John Drummond."

(44) Examination of John Drummond and James Angel, (Appendix C. 26.)

"JOHN DRUMMOND, Sworn in Council.

"Question by the President. To what Prince or State are you a subject?
"—Answer. A subject of Great Britain and a Lieutenant in His Majesty's Navy on half-pay, with leave to serve in the merchant service.

"Q. Upon what business was you at Rhode Island, when you took the command of the Brig Amelia, and what are the circumstances respecting it?—A. He was master of the ship Anastasia, belonging to Waterford. He loaded at Waterford with provisions for St John's in Newfoundland, where he had delivered his cargo: from thence ordered by his Merchants, with the Admiral's leave and from the Custom House, to proceed to Boston in order to procure stores, live stock and provisions for the officers, soldiers, and inhabitants at St. John's in Newfoundland afore said, agreeable to a licence granted by Government before his departure from Waterford. That on his arrival at Boston, from an Act passed the 1st Day of August last, by the State of Massachusetts, laying on duties from 10 to 20 per Cent. on all British Property, equivalent to a prohibition, with other extraordinary duties and impositions as obliged him to quit that port in 24 hours, and to proceed to Rhode Island where no such Act had taken place, from thence he proceeded to Providence in the said State, where he procured his cargo; that on the 22d of September he sailed from that port fully laden, agreeable to the orders and directions afore said, bound on his return to St. John in the Island of Newfoundland; that on the 24th of the said month, by contrary winds and very bad weather he was obliged to put back and anchored in the Naraganset Passage; that on the 25th of the said month the gale increased to a storm, which parted the cables and drove his ship on shore and she was wrecked; such of the wreck and cargo as were saved, were sent to Newport in Rhode Island, where they were disposed of at Public Vendue for account of the Underwriters; here he met Capt. Venture with Governor DesBarres directions and Proclamations; he entered into an Agreement with the said Venture to purchase a cargo of provisions; being fully determined to become an Inhabitant of the Island. Not having it in their power either to charter or hire British or American Bottoms to load or send provisions to this Island, obliged them to purchase on Account of Government a new Vessel for that purpose, as the laws of the State admitted such only to depart full laden the first voyage. That Capt. Venture, some days before the Act took place, had hired two Sloops and loaded them with provisions to supply the necessities of the Inhabitants of this Island, himself being obliged to quit Newport in Rhode Island in His Majesty's Brig the St. Peter on the 14th of November, leaving part of the provisions and stores behind, which are now on board the Brig Amelia, otherwise on the 15th, when the Act took place, his Vessel would have been seized.

"Q. Do you know any thing of Mr. Angell's coming to this Island to settle here as a British subject? And of any other Families? How many, and under what circumstances?—A. Before I had departed the State of Rhode Island, I was informed by Mr. Angel of his great wish to proceed with Amelia, to obtain the benefits of Governor DesBarres Proclamations, and to become His Majesty's subject in this Government. He was also informed by a Merchant of Newport, Mr. John Robertson and another Merchant Mr. Clarke with Others, acquainting him that a number of families amounting to near One Hundred and Fifty, from Governor DesBarres' Proclamation, circulating in the States of Connecticut and Rhode Island, intended to take the benefit thereof, and becoming His Majesty's subjects. A greater part wished to be provided with Vessels to bring their Families and Effects to this Island. And that the before-mentioned Messrs. Robertson and Clarke were preparing their Nets, Fishing Implements, &c. and intended to come to this Island in the Spring, and become Settlers agreeable to the terms of Governor DesBarres Proclamation.

Sydney, 20 Dec. 1786.

"JOHN DRUMMOND."

"A. Cuyler, Clerk of Council."

"JAMES ANGELL, Sworn. Says, That he was a Merchant of Providence in the State of Rhode Island, and that he had built a Brig called the Amelia. That on receiving a letter from Handy and Russell inform-

entry, and the Governor to take possession of the cargo in behalf of the crown at the proper value, until Venture or or authentic intelligence from him should come to throw satisfactory light upon it: that the vessel, being alledged to have been purchased for the Crown, be sent to England to be disposed of by His Majesty's Ministers, as, being alien built, she could not be sold, or navigated, by any authority on that side of the Atlantic (45).

The invoice and bill of lading, as well as Drummond's and Angell's depositions, together with the bill drawn by Venture, and the Advice of Council, being such; DesBarres fully considered it to be his duty to take care of the vessel and cargo, as public property in the mean time, until Venture's Arrival; when every point might be adjusted. Accordingly he gave orders for unloading the provisions into the Commissary's Store, and received Mr. Drummond's consent to proceed in her, as Sailing Master, to England.

After the lapse of two or three days in the business of unloading, it was perceived that Drummond and Angell, unloaded considerable quantities clandestinely, in the night, and distributed them to several Persons privately.

In the mean time, Angell who held the Bill drawn by Venture pressed for its payment, by a Draft on Treasury or in some other way, and the Governor's secretary was directed to settle it.

When the draft was ready for signing, the Secretary demanded the bill of sale of the vessel. Angell said he had delivered it to Venture and Drummond: the latter, being at hand, was called; but he disclaimed any knowledge of it: whereupon, Angell insisted that he had on board an agreement respecting it, subscribed by Drummond; who still persisted denying he remembered any such thing, and said he might have subscribed as a witness, but by no means as Principal. The agreement was however found with Drummond's name to it as a *Principal Purchaser* along with Venture (46).

"ing him that Capt. Venture wanted to purchase her, he went to Newport and saw Capt. Venture, who told him he wanted her for His Majesty's service, and mentioned the mode of payment if he bought her. That an Agreement was concluded for the sum of Five Hundred Guineas as she lay unfinished in her rigging, apparel, stores and furniture; and that payment should be made in Government Bills or Cash on his arrival at Cape Breton. And the Deponent produced to the Council a Bill of Exchange drawn by Capt. Venture, on His Excellency the Governor for the said amount. And further says, that having heard the terms of the Governor's Proclamation, he has come to this Island with an intention to settle as a British Subject under the protection of His Majesty's Government."

"Sydney, 20 Dec. 1786,

"JAMES ANGELL."

"A. Cuyler, Clerk of Council."

(45) Minutes of Council, holden 20th Dec. 1785.

(46) (App. C. 27) "Memorandum, of Agreement between Marsh and Angel, on the one part, and Thomas Venture and John Drummond on the other part. *Witnessed*, that the said Marsh and Angell, agree to sell to said Venture and Drummond the new Brigantine Amelia, of the burthen of one hundred tons, more or less, with all her standing and running rigging, one cable and two anchors, boat, &c. with whatever else now belongs to her, as she now lies at Providence, in consideration of which said Venture engages to pay said Marsh and Angell the sum of Five Hundred and Twenty-five Pounds sterling, to be paid in Bills of Exchange drawn by said Venture, and endorsed by said Drummond in favor of James Angell on the Governor of Cape Breton, payable in ten days after sight, either in cash or Bills of Exchange payable in London. In Witness whereof we have hereunto set our hands in Newport, this 11th Day of November, One Thousand Seven Hundred and Eighty-five."

"Thomas Venture,
"John Drummond,
"Marsh & Angell."

It is to be remarked that when Drummond was before the Council, upon oath, and produced the bill of lading which imported the cargo to be consigned to the Governor it happened that the same bill of lading had been returned into his hands by mistake.

Upon some altercation which ensued between him and Angell, and the Secretary, with respect to these suspicious and contradictory appearances, Drummond, depending on the circumstance of the *Bill of Lading* which he had produced to the Council being in his possession, insisted that it imported that the Consignment was to himself, and putting his hand into his pocket in order to produce a Bill of Lading to that effect, he happened by mistake to pull out that which had been before the council, and the secretary immediately recovered it. He also produced an Invoice, which, contrary to the one originally produced, expressed that the cargo belonged to himself and to the Rhode Island Merchants, who had shipped it (47); while Angell obtruded a power of Attorney to receive payment so far in behalf of the latter. (48)

From the original story, deposition and papers, of Drummond and Angell, it was to be understood that the cargo and Vessel had been purchased for government, and consigned to the Governors's duty to be taken care of: Now, the clandestine abstraction of the goods, and the double set of papers, setting forth the direct contrary of the first produced upon oath, left no room to doubt there was some mysterious fraud in the matter, surmises also had gone abroad that it was intended to run away with the vessel and with the residue of the cargo (49).

DesBarres laid the whole matter again before the council; which advised that the Custom house Officers should take the sails and rudder of the vessel into their custody; *who afterwards made, an absolute seizure of vessel*; and to stay paying the bill to Angell and all other payments until farther elucidation from Venture (50).

(47) Invoice (Appendix C. 40.)

(48) Power of Attorney, &c. (Appendix C. 39.)

(49) Depositions (Appendix C. 31, 32, & 33.)

(50) Minutes of Council, holden 30 & 31 December, 1785: 3, 6, 13, and 26 January; and on the 7 February, "This Board having taken into its most mature deliberation and consideration, all the matters and things which have been laid before it respecting the Brigantine Amelia and her cargo, Resolved unanimously, that it appears to His Majesty's Council that when the said Brigantine arrived in the Harbour of Sydney, it was reported and represented by the said John Drummond, to His Excellency the Governor and His Majesty's Council, that the said Brigantine had been purchased for the account and service of His Majesty's Government in this Island, and had on the same account been laden with the cargo then on board by the orders and authority of Thomas Venture, Esquire, an Agent of His Excellency the Governor, and that the whole transaction was of a public nature only, and for no private or particular account, and the same appears by the deposition of the said John Drummond taken by this Board, and also by a Bill of Lading of the said cargo signed by the said John Drummond. This Board did then give an humble advice to His Excellency, that the said cargo should be admitted to be landed, and applied and disposed of for the public use and service of this Government as the property of the Crown, and that the said Brigantine as His Majesty's property should be sent to England, for His Majesty's further orders and directions. That it appears since by the papers produced by the said John Drummond and James Angell, and demands and allegations made by them; that the former representations, report and depositions of the John Drummond and James Angell, are endeavoured to be falsified and contradicted, and very exorbitant demands are made for payment of the pretended purchase of the lading of the said Brigantine, now pretended to be not the property of the Crown, but illegally shipped and

What Drummond and Angell had informed was all the intelligence that had been obtained respecting Ventures's transactions during the season in question, and it was believed that he had perished in the attempt to get to Cape Breton.

THE PROVISIONS received from the *Amelia* subsisted the Colony until the middle of February 1786, when it became necessary to issue the remaining part of the 40,000 Rations for which DesBarres had given a Receipt to Colonel Yorke; but the Colonel countermanded the order of issue, alledging that he could not hold himself responsible to the commander in Chief to risk the troops wanting the necessary supplies by making such large issue.

The principle and circumstances of his taking the cargo of the *President*: the legal impressment of the cargo of the *Brandywine*, in which he resisted, with the military force, the execution of the civil officer's duty, instead of admitting it as he ought in apology of inability to comply with the inapplicable order General Campbell had sent to him at a distance, as he had, over and above, provisions

until Midsummer in store for his detachment: the compromise which he afterwards entered into by taking DesBarres's receipt for the 40,000 rations; all these circumstances being considered, it is obvious, that, as DesBarres had passed his receipt and responsibility and received 5000 rations thereof in part, the right to the residue was vested in his person, and he held it, as had been agreed upon, in the hands of the Commissary, subject to his further orders of issue, when the same should become necessary. Therefore Colonel Yorke's ostensible reasons were futile and affected, and he might have been actuated by real motives of a very different nature.

He was displeased perhaps because, he himself and some of the officers and men under his command, having committed themselves with the Chief Justice and officers of the Courts, by ridiculing judicial proceedings and resisting and resenting the execution of the officer's duty, some legal prosecutions had been raised by the respective persons (51), and the Colonel imagining that Governors had authority to quash, by an *ipse dixit*, the judicial proceedings in the courts, resented it

"imported for private accounts only, with an extravagant advance as a profit to the pretended owners and shippers thereof. And it not appearing to this Board, that any sufficient Bill of Sale or conveyance has been made to vest the property of the said Brigantine, either in His Majesty or the Government of this Island, or what the particulars of such furniture or stores, as were intended to have been sold therewith for the consideration of £.525 and a further demand of £. for the pretended outfits of the said vessel without any vouchers from Mr. Venture, and no Letter of Advice appearing to have been received from Mr. Venture respecting the Bill of Exchange, drawn by him in favour of the said James Angell, upon His Excellency for the said £.525 sterling, and it not appearing to the Board that Mr. Venture had any orders from His Excellency for drawing that Bill, and no advice or vouchers appearing from Mr. Venture, or other authentic evidence for ascertaining to this Board by what orders or authorities or upon what conditions, agreements, accounts and prices, the said cargo of the said Brigantine was purchased, procured and shipped, or whether any, and what, payments may have been made therefore by Mr. Venture, and it not appearing to this Board with any certainty, upon what terms and conditions the crew of the said Brigantine were hired and shipped, or by whom and at what place or period they were to be discharged and paid; and the said Mr. Venture not being yet arrived to explain and give the requisite information to Government, not having given any certificates or writing relative thereto, so far as the Council may have been able to discover. Upon the fullest consideration of the whole matters and things aforesaid, and every circumstance attending the same: This Board doth unanimously *Resolve*, that it is the humble advice and opinion of His Majesty's Council to His Excellency the Governor, that the transaction of purchasing said Brigantine and her lading, the hiring and shipping the crew thereof, and the proceedings of the said Thomas Venture, John Drummond and James Angell, and others who have been anywise employed or concerned thereabout is not sufficiently explained, supported, or authenticated to warrant this Board in advising His Excellency to pay the said Bill of Exchange, or make any other payments to the said John Drummond, James Angell, or the Crew of the said Brigantine until the arrival of the said Thomas Venture, or that other explicit evidence and vouchers shall be produced, to render His Excellency on His Majesty's behalf safe and secure in making such payments, if any sums of money shall appear to be due on the said account. And that His Excellency be humbly advised not to make any such payments until sufficient advice, evidence and vouchers shall appear; but that His Excellency be further humbly advised to grant certificates and receipts to the said John Drummond and James Angell respectively for the said Brigantine, her tackle, apparel and furniture, boats and appurtenances, as she shall lay, when quitted by the said John Drummond and also for all such provisions, articles and things, as shall have been received by His Excellency or his orders out of the said Brigantine, and that the Master, Officers and Crew, of the said Brigantine be discharged therefrom."

(51) *Depositions and Complaints* before the Magistrates at Sydney, on the 25th & 26th Dec. 1785, (for breaking in night time into the Stores, &c.) (*App. C. 307 to 314.*)

Presentment of the Grand Jury, (*App. C. 315.*) Also Extract (*App. 329.*) viz.

" ISLAND of CAPE BRETON, &c.

"THE Jurors of our Sovereign Lord the King for the Island of Cape Breton, *Present*: That a Warrant was issued by Richard Gibbons, Esquire, His Majesty's Chief Justice of His Majesty's Island of Cape Breton and its Dependencies, to David Taitt, Esquire, Provost Marshal of the said Island, dated the 10th day of December, 1785, to apprehend the bodies of Ralph Gore, Gentleman, Lieutenant in His Majesty's 33d Regiment, with one Brown, a Sergeant, and other Soldiers of the said Regiment, to the number of three and more, and ordering Colonel John Yorke commanding His Majesty's 33d Regiment of Foot in special, and all other His Majesty's Officers and Ministers, civil and military, and others His Majesty's liege subjects to be aiding and assisting to the utmost of their power in the execution of the said Warrant, as they should answer to the contrary at their peril.

"The *Grand Jury* are unanimously of opinion, that Colonel John Yorke commanding His Majesty's 33d Regiment of Foot, is highly culpable in refusing to aid and assist the Civil Officer in the execution of his duty, and for calling the Civil Law *illegal, oppressive and tyrannical* in his Letter to the Provost Marshal, dated 11th December, 1785. *W. Brown*, (Foreman), *J. Smith*, *J. Cameron*, *W. Plant*, *G. Hall*, *T. Macaristine*, *J. Wilkison*, *W. Blackburne*, *T. Jenner*, *H. Watts*, *H. Roberts*, *J. O'Brien*, *A. Forrest*, *R. Richardson*.

Letter from the Attorney General to the Clerk of the Crown, dated Point Amelia, 7th Feb. 1786. (App. C. 326, viz.)

"INCLOSED I send you the draft of an Indictment founded on the *Presentment* of the Grand Jury, which you will engross on parchment with all possible dispatch. I have sent you some parchment, as also the other papers delivered me. When you have engrossed the indictment you will deliver it to the Foreman in order that the Grand Jury may sign it, when they meet to-morrow morning and bring it to Court with them. I am, &c. your's,

"D. MATHEWS."

Indictment: The King v. Col. John Yorke, (App. C. 330.)

Letter from the Attorney General to the Clerk of the Crown, dated 10th Feb. 1786, (Appendix C. 328.) viz.

"YOU will please to engross the within draft on parchment and sign my name as Attorney General, and the sooner Mr. Taitt serves it, the better. I am, &c.

"To Thomas Affield, Esq."

"D. MATHEWS, Att. Gen."

"GEORGE THE THIRD by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth: To the Provost Marshal of the Island of Cape Breton, *Greeting*: We command you that you omit not by reason of any liberty in your Bailiwick, but that you cause Colonel John Yorke of Sydney, in your said Bailiwick, to come before Our Chief Justice assigned to keep our peace, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said Island committed, at Sydney in your said Bailiwick on Monday the Thirteenth Day of February Instant, to answer unto Us upon certain Articles presented against him the said John

highly, and adopted the refusal of the balance of the 40,000 rations, as an infallible means of distressing DesBarres (52).

When Colonel Yorke's refusal was publicly known, it recalled his former conduct to the memory of the people. These actually suffering in want of bread, and in dread of perishing with their families, from what they called unfeeling, inhuman and treacherous conduct, became more ungovernable than formerly, and loudly talked of taking the Store by force. In order to prevent matters going to headlong extremity, the regular course of the Civil Law seemed to be the most eligible; whether for procuring time to Colonel Yorke to think better of it, as well as for convincing him of the seriousness of the circumstances, or for keeping the people right in law, as they were in principle, and in all events for moderating their fury, as they would be less apt to commit irreparable irregularities; while they might perceive that it was not meant to desert their cause; but only to draw the time which would appear necessary for taking the regular steps.

"Yorke, and have you then there this precept. Witness Richard Gibbons, Esquire, Our Chief Justice of Our said Island of Cape Breton at Sydney, the Eighth Day of February, in the Twenty-sixth Year of Our Reign.

"D. Matthews, Att. Gen."

"THO. ASHFELD, Cl. C."

Depositions (Appendix B. 307 to 314). *Presentment of the Grand Jury*, (Appendix 315) viz.

"The Jurors of OUR LORD the KING for the Island of Cape Breton, Present: That, &c. And the Jurors aforesaid further present that the Officers and Soldiers of His Majesty's 33d Regiment stationed in this Island, in those and other instances have confederated and acted in opposition to the laws of the land, and His Majesty's Civil Government in this Island, injuriously to the civil rights of His Majesty's subjects inhabitants thereof, and impede this Settlement and success of the same, and retard the great advantages which may be justly expected to arise from a happy and prosperous population in this Government: That they have in many instances disseminated jealousies and other groundless suspicions among His Majesty's subjects in this Island, and have shewn contempt to the Civil Government and its Officers, and an inclination to obstruct the public measures of the Governor and Council for the advancement of this Settlement. W. Brown (Foreman), J. Smith, J. Cameron, W. Plant, G. Hall, W. Blackburne, T. Jenner, T. Macaristin, H. Watts, J. Willifson, H. Roberts, J. O'Brien, A. Forest, R. Richardson."

(52) *Letters from Colonel Yorke to DesBarres, dated 16 & 20 February, 1786: also Depositions*. (Appendix C. 324.) viz.

"SYDNEY, ff. Captain Stewart and Lieutenant Ralph Gore of His Majesty's 33d Regiment, having waited on His Excellency Governor DesBarres, in the presence of Mr. Henry Widmore Perry and George Rodgers, Captain Stewart delivered the following message to the Governor, viz. That the Centry at the Governor's door had been knocked down, disarmed, and carried before the Chief Justice,—that he came from Colonel Yorke to the Governor as Chief Magistrate, to desire that he would have satisfaction given for the insult, which Capt. Stewart conceived was even offered to the Governor himself, and that Capt. Stewart thought the Governor ought to take it up. That the Governor thereupon replied, that no private feelings of his should interfere with public justice,—that as the said Centry was taken up for felony, and in the hands of justice, that justice in due course of law would be done to him. Upon which Captain Stewart said, that he was authorized by the Colonel to inform the Governor, that he would not be answerable for the consequences, when the soldiers came to understand that their brother soldier was knocked down at his post. After this the Governor requested, that Capt. Stewart would have the goodness to explain, what it was meant the Governor was to understand by Col. Yorke's saying, that he would not be answerable for the consequences attending this man's being taken up for felony and brought to justice, and whether it was meant that the Colonel would give up the command and discipline of his Corps? Upon which Captain Stewart said, that he would not be answerable for the consequences, when the soldiers should find that a brother soldier had been taken up,—that Captain Stewart said, he would deliver the message of Colonel Yorke in writing, if the Governor chose. That, upon the Governor requesting that he would be pleased to do so, or suffer the same to be done in his presence, Captain

Accordingly, by the unanimous advice of the Council, a writ was issued, on the 27th February, 1786, out of Chancery, directed to the proper Officer, ordering him to take the force of the Island, if necessary, for entering the Provision Store to deliver to a person appointed by the Governor the balance of 40,000 rations: In case of resistance to break open the avenues and doors of the Store. All officers and subjects, civil and military, and in particular the Commissary and his Deputy, as well as the Officers and Privates of the 33d Regiment, were required to be aiding and assisting to him.

The execution of this Warrant was suspended, for a few days, by the interposition of a Gentleman highly respected by, and a friend of both parties, who had been at least equally conversant and practiced in military knowledge and duty as Colonel Yorke, and whose letters to Colonel Yorke, evince a heart overflowing with humanity as well as with respect for the laws (53).

"Stewart declined it 'till he first spoke to Colonel Yorke on the subject, and had his leave for so doing.—That Captain Stewart left the room saying, that they would not answer the consequences of this man being kept in the hands of justice.

"Sworn by Henry Widmore Perry and

"H. W. PERRY.

"George Rodgers, Esquires, at Sydney

"GEO. RODGERS."

"Shed in Sydney, the 17th day of

"March, 1786, before me, R. GIBBONS."

(53) *Letters of Major Moncrieffe to Colonel Yorke, dated the 26th & 28th February 1786.*

"Dear Colonel,

"I WAS preparing to wait on you to-day, to have some conversation with you, on the uneasiness I feel on the present unhappy situation of affairs: but my servant telling me you had passed towards Blenheim Town, and still labouring under that anxiety, which a mind wishing to preserve quiet must be sensible of, I thought it better not to lose time and give my wishes to you, which are dictated by the above motives, in writing.

"I understand, by a Letter of your's dated 12th December, you complied with a requisition of the Governor's by Advice of His Majesty's Council, to lend him 40,000 Rations. He, not having sufficient store to receive them, let them remain with Storey to draw them as he should have occasion. He has drawn 5000, and now on emergency is sending for the remainder; I am told Storey refuses to deliver them, I earnestly wish, influenced only by that disposition (which I hope will ever prevail with me, of doing all the good my small abilities are equal to) that I may prevail with you to let Storey deliver the provisions agreeably to your former order. As a friend I must entreat you not to recede from it, and I flatter myself, had I an opportunity this day of consulting Mr. Mathews (the Attorney General of the Island) he would back my opinion. I hope Dear Colonel, you will receive this, as it sincerely meant, which is to quiet the public mind, and to let those heats subside, which have already gone too far."

"Dear Colonel,

Sydney, 28th February, 1786.

"IN apprehension of coercive steps, being taken by the civil power to force a surrender of those provisions remaining in the store, which the Governor passed a receipt for, I wrote to Mr. Mathews, entreating him to interpose his advice with you. He writes me word he had done so but is totally disregarded. As your friend, and a very old officer, I am sorry for it. This day a warrant under the Great Seal was shewn to me to demand, or take by force, such provisions held by forcible detainer; I requested the suspension of the execution of it, from a principle of humanity and my particular feelings as a soldier, 'till I could see Mr. Mathews, to whom I wrote immediately. He declines coming, having understood that all he could say on the subject would avail nothing; but he had wrote to you, and hoped it might have some effect.

"Matters being in this situation, without farther ceremony, I think it

my duty as an old soldier, a man of humane feelings and much reading,

to caution you against an opposition to the civil power, however iniquitous, or violent.

"All the Generals on earth cannot sanctify such proceedings, it is not

left to the military by the constitution to say, they are not satisfied with

the proceedings of such a court, or such a process. The King's repre-

All remonstrances were ineffectual, and the people assembling on the 1st of March, it became necessary to bring forward the Writ, and a crisis, which seemed inevitable (54).

By design, or a strange co-incidence, Lieutenant Norford, who had effected the former reconciliation, was officer of the day. The Colonel sent for him to his Quarters to receive orders, respecting the Provision Store, and said:—"As there will be something to do this day, I have sent for you, (Sir God knows whether you or I will be alive by night) to say I am determined to defend that Store to the last man in the Regiment; and I will not suffer one of

"tentative here must be responsible to His Majesty, and the head of the law is amenable to parliament; where he may be impeached for his tyrannic and iniquitous proceedings. But, woe to the officer commanding troops, who will be so imprudent, as to oppose the civil power, however illegally exerted in his opinion; were it my case, if a simple Constable demanded the remainder of the provisions for which a receipt was passed, no order of General Campbell's would prevent me from yielding to civil compulsion. I told you above, I have been the means of suspending the execution of the warrant, which I feared might be attended with tumult in His Majesty's Government, and perhaps the loss of blood. In a former letter, I hoped the interference would be received as I meant it. Concerning what I say upon this occasion, I dare meet the eyes of all Generals, *liberavi animam meam*, and I wish it may have happy consequences. The Governor is, I find, determined to support his place, and to maintain the trust committed to him by His Majesty with his life. I wish, Dear Sir, you would give cool attention to the above for your own honour, and all concerned.

"I am, Dear Sir, with the utmost respect, &c."

(54) *Chancery Writ*, (Appendix C. 346.)

"ISLAND of CAPE BRETON, (to wit)

"GEORGE THE THIRD, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith, &c. To Our Provoost Marshal of our Island of Cape Breton, *Greeting* :

"WHEREAS we are informed by the Resolution and Vote of Our Council of our said Island of Cape Breton, that thirty-four thousand, six hundred and seventy-one rations of provisions belonging to us, and deposited in our military stores at Sydney in our Island aforesaid, and borrowed by our Lieutenant Governor and Commander in Chief of our said Island from the Military Department for our especial service, and for the support and subsistence of our loving subjects in the said Island and its Dependencies, who are otherwise in danger of perishing for want, or abandoning our said territory, and thereby retarding and obstructing the speedy settlement of our said Island; and to prevent the same from becoming importantly advantageous to our Crown and our Kingdom of Great Britain, are by force and arms withheld and detained from our said Lieutenant Governor, against our peace and in high contempt of us and our Crown and Dignity, and of our said Lieutenant Governor, and the powers and authorities in him vested by our Royal Commission and Instructions. We command you therefore, that without delay, taking with you the force of our said Island and its Dependencies, (if necessary) you enter into our Store or Stores, wherein the said provisions now remain and deliver to our said Lieutenant Governor, or to such person or persons as he shall appoint to receive the same, the said thirty-four thousand six hundred and seventy-one rations of provisions, and, in case resistance or opposition, shall be made or given to you in the execution of these our commands, you are by force of arms (if requisite) to suppress and remove all such resistance and opposition, and to force and break open the doors or avenues to and into our said Store or Stores, or any other place or places, wherein the said provisions are or may be deposited, lodged or concealed, having first required the same to be peaceably opened by the person or persons (if to be found) who have the possession and charge of the keys of the said stores or places of the said provisions. And all our Officers and Ministers, civil and military and others our loving subjects, and especially our Commissary of Stores and Provisions in our Island aforesaid or his Deputy, or the person or persons acting for him, and the commissioned and non-commissioned officers and soldiers of our Thirty-third Regiment, or Yorkshire Regiment of Foot, are hereby strictly required and commanded to yield absolute obedience to this our writ; and be aiding and assisting unto you in this our especial service to the utmost of their power, as they will

"fired; for I will put the whole of them to death, and I with the Governor may be at the head of them, as I am informed he intends, and I will give a very good account of that Gentleman. I shall be in view to see how you go on. I shall have the whole Regiment ready to support you in case of need." Lieutenant Norford answered, that, if the Warrant was under the Great Seal of the Island, he should not think himself justifiable in opposing it, and, as he knew the opinion of the two Crown Lawyers was, that it was not to be opposed, he would suffer the Civil Power to take possession of the Store: He further observed, that the "them that come down ever to return if there is a shot

"answer the contrary at their peril. Given under our Great Seal of our Island of Cape Breton aforesaid, Witness our Trusty and well-beloved Joseph Frederick Wallat DesBarres, Esquire, our Lieutenant Governor and Commander in Chief, in and over our said Island and its Dependencies and Chancellor of the same, at Sydney, this Twenty-seventh Day of February in the Twenty-sixth Year of our Reign, and in the Year of Our Lord One Thousand, Seven Hundred and Eighty-six.

"H. W. PERRY, Cl. of the Crown in Chancery."

Address of the principal Inhabitants, Merchants, &c. on the 1st March, 1786.

"To Joseph Frederick Wallat DesBarres, Esquire, Lieutenant Governor of His Majesty's Island of Cape Breton and its Dependencies, Chancellor of the same, &c. &c. &c.

"The humble Address of the principal Inhabitants of the Town and County of Sydney, and of the Merchants, Traders and Others residing in the said Town. We beg leave with the most heartfelt satisfaction to express to you our sincere gratitude, veneration and esteem for your paternal care shewn towards us on many and repeated occasions, especially in the late candid manner in which you have ascertained to us our just rights as free born Britons. We wish to assure your Excellency, that while we breathe we shall ever esteem ourselves very highly indebted to you, for your zeal in forming and establishing a respectable Civil Administration in this Island, fixed on so firm a basis as will undoubtedly ascertain to us and our posterity, the full advantages of the many blessings we have already received, and what we further hope to reap from your unbounded exertions for our prosperity, which we humbly and faithfully acknowledge. We further wish to assure your Excellency, that we will with our lives and properties assist as far as in us lays, His Majesty's most gracious intentions and instructions, and own no other power than that granted unto you his Lieutenant Governor. We cannot but feel ingly lament that the Military, a body sent to cherish and support this infant Settlement, should by every means in their power try to prevent our rising greatness in the speedy settlement of this Island, and that these troops now here should so far forget their duty, and the allegiance due to our Sovereign, as to prevent you in any shape whatever carrying into execution the Orders you have purposedly received from our August Sovereign, to forward our success and the prosperity of the British Empire. We are your Excellency's most faithful and dutiful humble Servants,

"Thomas Ashfield, Wm. Brown, John Smith, Wm. Plant, Rob. Richardson, John O'Brien, Rich. Birmingham, Fran. Berry, John Murphey, Cha. Cope, Geo. Cope, Jesse Richards, Pierce Kennedy, Patrick Rooney Nugent, John Moorehead, Smith Woodruff, Wm. Thompson, Nich. Deane, Wm. Deane, Arch. Forrest, Geo. Hall, Tho. Jenner, David Hall, Cha. Kitson, Dan. Murphey, John Willison, Henrith M'Kenzie, Jerem. Murphy, James Muckjohn, John Muggah, Dan. Watton, John Eager, Wm. Jack, Donald M'Cilliverry, Wm. Wm. Cruikshanks, Donald Grant, John Roy, Geo. Sutherland, James Mills, Geo. Collie, Geo. Petre, Gregory Grant, John Sloan, Francis Owens, James Hutchinson, Alex. Kently, Tho. Davis, Arch. Gray, Cha. Grant, Wm. Angus, Erroll Boyd, Mathew Joice, Patrick Callman, Wm. Blackburne, T. Macorristine, John Davies, John Cameron, Alex. Mattheson, John Batterby, Edw. Pate, C. N. Roland, Alex. King, John Murphey, Benj. Rudge, Wm. Hope, Geo. Sheppard, John Holland, Rich. Right, Henry Roberts, Martin Bowers, Wm. Wood, John Patterson, Jacob Beyers, Benj. Swain, James Holt, Tho. Garniss, Tho. Coleman, Sam. Smith, Tho. Skelton, Rob. Graham, Rob. Hedge, C. Gruntenmyer, James Chambers, Mich. Doycar, Tho. Moxley, David Riley, Jacob Miller, Wm. Leonard, Wm. Smith, Wm. Davidson, Hugh Watts, James Rea, Donald M'Gregor, John Gardner, Dennis Lawlor, Hugh Hora, T. Pitts, John Buttler, Mat. Eagan, John Hamilton, Pat. Rachford, Mich. M'Mahone, Rich. Pechey, John

Colonel knew the Attorney General's Opinion, and wondered he should think of opposition (55).

Lieutenant Norford was ordered to be relieved and sent to his room. The Regiment was kept in readiness all the day and night, and additional centries were placed around the barracks, &c.

While Colonel Yorke was thus preparing to resist the Laws, of which the military profession is, in its true spirit, the aid and support; while all these dispositions were making in the barracks on the 1st. of March, DesBarres judged it most conducive to every good purpose, to let the rage spend itself for that day; but, he sent the Writ and the Provost Marshal on the 2d, taking precautions however to prevent any great concourse of people, and to impress those, present with an idea, that, if they would refrain from tumult, and be governed entirely by the attending justices, every thing would be settled to their satisfaction.

The Provost Marshal accordingly read the Warrant, in the presence of two justices, and proclaimed the Riot Act. He proposed to force open the store, and was opposed. The military officer was taken prisoner; but immediately rescued (56).

On the 3d March, Colonel Yorke informed the Lieutenant Governor that he had ordered his troops not to go beyond a certain line described and guarded by centinels, and that he expected none of the people would attempt to pass it; adding that he was farther prompted to this step because he was unassisted with legal aid by council, and therefore wished to keep clear of any infringement on the constitution 'till he could procure proper advice and assistance (57)".

How far this affected ignorance of the laws should avail, seemed deducible from a consideration of the judicious and explicit advice conveyed in Major Moncrieffe's letters to him, which set forth that he had also the Attorney General's opinion; but least any pretext should remain, DesBarres wrote to him as follows, viz:

"Sir, I am favored with your letter of this day's

"Brooks, Alex. Campbell, Donald Mathison, Angus M'Intire, John Whelan, John M'Mullen, Wm. Bown, Alex. Maccloud, John Braille, Alex. Hamilton, Mat. Stobert, Dan. M'Gillivray, Rob. Mugford, David M'Leod, Sam. Hamilton, James M'Adams, Alex. Dickson, Donald M'Arthur, Henry Neal, Geo. Snedon, John Leach, Friend Batchelor, Arthur Murphy, John Robinson, John Hamilton, Wm. Bulger, Rich. Diggles, Donald Cameron, Donald M'Ever, Joseph Gravois, M. Babin, J. Leunglois, T. J. Mermaud, Fred. Aubrey, &c."

(55) Lieutenant Norford's Court Martial, and Documents. (Appendix, C. 359, 360, 364.)

(56) (App. C. 346.) viz. *The Provost Marshal's Return.*

"CAPE BRETON, ff.

"IN OBEDIENCE to the within writ. I, at three of the clock this afternoon called at the house of Mr. John Storey the acting Commissary to the 33d Regiment for issuing provisions, and asked his servant if Mr. Storey was at home; the servant answered that he was not, nor did he know where his master was: I soon after proceeded with George Cope, a Constable, and Messrs. Thomas Moxley, Smith Woodroof and four or five others, to the Military Store in which the provisions within mentioned were deposited; On my arrival near the store I found the avenue guarded by Leonard Jones, *Gent. and Ensign*, James Brown, a *serjeant*, and eleven private Soldiers, and one centinel at the door of the store, all belonging to His Majesty's 33d. Regiment of Foot. I demanded of Mr. Jones to order his men to open a way for me, to pass to the store. Mr. Jones said that he would not obey, nor should I pass, and ordered his men to charge their bayonets: the serjeant at the same time drawing his sword. I then read this original Writ. And again commanded Mr. Jones to remove his men which he absolutely refused. Lieutenants Hervey and Fox, Ensign Rowe, and Mr. Gaff, (Quarter Master belonging

"date, the tenor of which is of such an important nature to the honour, interest and authority of His Majesty's Government in this Island, that I think it necessary to lay the same before His Majesty's Council, which will for that purpose be assembled at my house to morrow at 10 o'clock A.M.; where I will order His Majesty's Attorney General of this Island to attend, and give his opinion in law: His Majesty's Chief Justice being one of the council will also be present."

"Those two officers are appointed by His Majesty's Sign Manual, and under His Signet to their respective stations, and solemnly sworn as the Chief Law-Counsellors of the Crown in this Government and responsible to the King for such advice as they shall give, when required in his behalf. I must therefore request you to be present at the Board at that time; when I shall on the part of His Majesty require the solemn opinion and advice of those officers on the subject matter of your letter, and such other matters as respect the rights of the Crown, and the civil and military departments of Government in this Island; and I shall, if necessary, farther require the opinion and advice of His Majesty's Council on those very interesting and important subjects. This mode, I flatter myself, will be agreeable to you, as it must effectually obviate that part of your letter wherein you say you are at present unassisted by any legal aid of council, and you wish to keep clear of any infringement on the Constitution."

On the next day, Col. Yorke acknowledged the receipt of this letter, and requested his personal appearance might be dispensed with, adding that he could have no objection to the opinion of the law officers being sent to him (58). Accordingly the consideration of the matter was, by order of the council, taken up by them. The Attorney General was clearly of opinion, that obedience ought to have been paid to the Writ. The opinion of the Chief Justice was so full explicit, and clearly argued, on the fundamental principles of the British Constitution and laws, that it could not possibly have left any doubt on the Colonel's mind, of the

"to the aforesaid 33d. Regiment) with several privates, having come where I was, I read the Proclamation, commanding all persons assembled there to disperse upon the pains contained in the Act of King George the First for preventing Tumults and Riotous Assemblies and also read the different sections in said Act, after which I commanded Mr. Jones and all persons there assembled to disperse: Lieutenants Hervey and Fox, Ensign Rowe, and Quarter Master Gaff, with some others went off having previously refused to give me any aid. I remained upwards of one hour after reading the Act aforesaid, frequently commanding Mr. Jones and his party to disperse, which he and they continued to refuse. Sometime before the expiration of the hour Mr. Gaff returned, and, while standing near the soldiers, said that he had been ten years in America serving His Majesty in different places, but never met with such a Pack of Rascals as on this Island; He then retreated behind Mr. Jones and his party. At the expiration of the hour I declared Mr. Jones and his party guilty of felony, agreeably to the Act aforesaid, and immediately arrested Mr. Jones; but he getting out of my hands between a tree and Serjeant Brown, drew in behind the Serjeant, and then ordered the party to charge their Bayonets: on the serjeant's repeating the orders they immediately complied and charged severally against me and rescued Mr. Jones, and prevented my retaking him. Mr. Gaff called to me that, as I had done my duty, I had better not continue longer for fear of the worst consequences. Given under my Hand this 2d of March in the Twenty-sixth Year of His Majesty's Reign Anno Domini 1786.

"D. TAITT, P. M."

(57) Letter from Colonel Yorke to DesBarres, dated 3d March, 1786, (Appendix C. 255.)

(58) Letter from Colonel Yorke to DesBarres, dated 4th March, 1786, (Appendix C. 257.)

powers of the Civil Government being supreme over all persons of what degree and profession soever (59).

(59) LAW OPINIONS for the Information of Colonel *Torke*, given by the Law Officers of the Crown, at the Requisition of the Governor in Council, (*Appendix C. 50 & 51.*) viz.

Opinion given by the Chief Justice,

" IN obedience to your Excellency's Order in Council of yesterday, I have maturely considered the important matters therein expressed, and beg leave humbly to lay before your Excellency, as His Majesty's Representative in the Government of this Island, my Opinion and Advice thereupon as follows :

" That, by the fundamental principles of the British Law and Constitution, the Civil Powers of Government are supreme over all manner of persons, Civil, Military, and Ecclesiastical, of whatever rank, title or degree soever residing within any part of His Majesty's Dominions, and are uncontrollable by any men or set of men, except in the subordinate degrees in which the Civil Courts of Justice and Civil Magistrates stand to each other, but that all military powers and authority whatever, either personally vested in particular officers, or in military courts martial, are in time of peace and within the British Dominions amenable to the civil power and examinable, controllable and punishable, in proper courts of common law, or by particular civil magistrates specially vested in certain cases with such authority.

" That it is the indispensable duty of all the subjects of the British State, both in civil and military stations, to yield absolute obedience and submission to all writs, warrants, orders and commands, issuing out of any of the civil courts of justice, or from civil judges and magistrates, and to give no interruption or opposition, to the executive officer in carrying the same into the fullest execution; but (when required) to give their utmost aid and assistance to the executive civil officer in so doing.

" That no military order, power, or authority whatever, can lawfully authorize, warrant, or justify a contempt of, or disobedience and opposition to, writs, warrants, or commands of the civil power or the civil officer or officers in the execution thereof, or a refusal to aid and assist him or them when required so to do.

" That no military man or set of men, or others whomsoever, have any power or authority to pronounce or determine of or upon the legality or illegality of any civil judgments, writs, warrants, commands or process whatever, or under any such pretence to refuse submission and obedience, or make any resistance or opposition thereunto; for the legality or illegality of any judicial determinations, writs, warrants, commands or process of the civil power, are only cognizable before and reversible or controllable by a civil court or magistrate, having superior jurisdiction to the court or magistrate making such judicial determination or issuing such writ, warrant, command or process.

" That all resistance and opposition to the civil power and magistracy under pretence of such supposed illegality or irregularity (unless by the express command and authority of a superior civil power) is highly criminal, and according to the circumstances and degrees of resistance and opposition, may amount to an high contempt, misprison and misdemeanor, capital felony, or even high treason, and subject the offender or offenders to the pains and penalties assigned by the laws of the land to the respective degrees of criminality.

" That no court martial or military power whatever can by any construction of the Articles of War, or any military authority or power call in question, try, censure, or punish any officer, or soldier for having (although contrary to the express orders and commands of a superior military officer) yielded peaceable obedience and submission to the civil power, courts of justice, magistrates or executive officer, acting officially without presuming to judge of the legality or illegality of their proceedings, or for having given the utmost aid and assistance to the civil power if by it required so to do. And if any such officer or soldier should be militarily put in arrest, confined, charged, or brought to a trial before a court martial or other military tribunal, for having so submitted or yielded obedience, or given aid and assistance to the civil power such military proceedings and prosecutions would be *coram non iudice*, illegal and void and the members of such military court martial or tribunal, would be amenable to a civil court of justice and punishable for their contempt and violation of the laws of the land, and answerable in damages to the party injured.

" That every such officer and soldier so put in arrest, confined, charged or brought to trial before a court martial or military tribunal, for having so submitted, yielded obedience, or given aid and assistance to the civil power and authority, on application to a supreme court of justice

The matter was now out of DesBarres's department; The Inhabitants, Magistrates, and the Grand Jury, having

" when sitting or to a judge thereof in the vacation, would be entitled to be removed by writ of Habeas Corpus before such court or judge, if it should appear to such court or judge upon examination into the fact or facts for which such officer or soldier was put in arrest, confined, charged, or brought to a trial before a court martial or military tribunal, (notwithstanding the same should be charged under any military technical construction of criminality) was or were the submission, obedience, aid and assistance given by such officer or soldier to the civil power, (and for no other crime, matter or thing, intirely foreign to or unconnected therewith) such court or judge by the law of the land is fully empowered and authorized, and ought to release and set at liberty such officer or soldier from such military arrest, confinement, charge and trial, and grant to such officer or soldier His Majesty's Writ of Prohibition directed to all military officers of what rank or degree soever, and all military courts martial, tribunals and powers, commanding them and every of them to surcease, forbear and desist from all further proceedings against such officer or soldier, for the fact or facts aforesaid, and any disobedience to such Writ or Prohibition, would be an high contempt and severely punishable.

" That the interposition of the authority and commands of the civil power and magistracy is a full and sufficient justification and warrant, to every military officer and soldier to desist from executing any order in command of his military superior, which may militate with, oppose or controvert, such civil authority and commands.

" That all His Majesty's forts, garrisons, barracks, stores and military quarters, within the dominions belonging to the Crown of Great Britain, are to be open and accessible to the civil magistrate and executive officer when acting in the official capacity at such times and in like manner as the dwelling houses, stores, and inclosures of all and any of His Majesty's subjects and others residing in the British Dominions, and every opposition, neglect or refusal, to admit the civil magistrate and executive officer, when in the execution of their office is a violation of the law of the land and punishable.

" That any commanding officer of any regiment, troop company or party that shall deny access to, conceal himself from, or directly or indirectly prevent any civil magistrate or peace officer from making application to such commanding officer or officers for his aid and assistance according to the 59th Section of the Act of Parliament, 'For punishing mutiny and desertion and for the better payment of the army and their quarters,' will be guilty of a breach and violation of the said section and punishable in the manner and form as is therein prescribed, and may in some cases render himself or themselves principals in, or accessory to the crime with which the person or persons to be arrested stand charged.

" That His Majesty's Civil Lieutenant Governor and Commander in Chief of the Island of Cape Breton and its Dependencies is within the same by the King's Commission and Royal Instructions, His Majesty's Representative and vested with the exercise of His Majesty's Royal Powers and Prerogatives, and answerable for his exercise thereof only to His Majesty, or in the Court of King's Bench at Westminster, to any of His subjects who may conceive themselves unlawfully aggrieved thereby.

" That His Majesty's said Lieutenant Governor is His Majesty's Chancellor in this Government, and fully vested within the same with all the powers and authorities, judicial and ministerial, that are possessed by the Lord High Chancellor of Great Britain within that Kingdom, and authorized to issue and compel obedience unto all manner of writs, and process that are issuable out of the High Court of Chancery at Westminster Hall, and that all disobedience and contempts thereof are punishable in like manner."

" That His Majesty's Chief Justice and Judges of the Supreme Courts of Justice in this Island, within the same are fully possessed of all the like powers and authorities that are possessed and vested in Lord Chief Justices of the King's Bench, Common Pleas, Lord Chief Baron of the Exchequer, and Justices and Barons of said Courts at Westminster Hall, and all contempt of, and disobedience thereunto, are equally criminal and in like manner punishable.

" That the Justices of the Peace in this Island are therein fully vested with the same powers and authority, that Justices of the Peace in England are vested with, except only in cases wherein those powers are otherwise regulated by Acts of Parliament or the Ordinances of this Island, and that contempts and disobedience to their orders and authority are in like manner punishable.

" That the Provost Marshal of this Island is therein vested with the

carried it into the Supreme Court: where presentments were made, and the Chief Justice issued Warrants for apprehending the officers and soldiers guilty of resistance (60). After this transaction parties from eighteen to thirty, headed by one or more officers, armed with mus-

" like ministerial powers and authorities possessed by Sheriffs in England within their respective counties, and entitled by law to the like submission, obedience and aid, and the Constables and other Peace Officers in this Island are lawfully invested with the same ministerial powers and authorities vested in the like officers in England.

" That His Majesty's Courts of Law and Equity, the Judges, Justices and Officers of Justice in this Island are lawfully invested with, have and possess within this Government the like powers and authorities of control, command and conviction, over all His Majesty's subjects resident therein, whether civil or military, and of what rank and degree soever, that the Courts of Law and Equity, Judges, Justices and like Officers of Judges, Justices and like Officers of Justice are invested with and possess in England.

" That the assembling together of bodies of men in arms, by military orders or otherwise, or of their own accord, to oppose the civil authority of Government, or the execution of the process awarded or issued by the civil power, is in the eye of the law deemed levying war against the King and High Treason.

" That the lawful right of taking and holding possession, applying and disposing of houses, buildings, lands, tenements, goods, chattels, stores, provisions, and other matters of property; whether belonging to the Crown or particular persons, or bodies politic or corporate, is properly cognizable and determinable (when contested) in His Majesty's Courts of Law or Equity, and can under no circumstances whatever in any part of the Dominions of the Crown of Great Britain (where such Courts exist and in time of peace) be deemed a matter purely military, or definitively determinable by any military power or authority whatever.

" That His Majesty's Civil Governor or Commander in Chief of this Island, when residing therein, is (under His Majesty) the guardian and protector of the King's subjects therein, and the proper dispenser of His Majesty's Justice, Mercy, and Bounty, to and among them, and cannot lawfully be interfered with, opposed or controuled therein, by any military authority or power whatsoever.

" Sydney Shed, March 6, 1736.

" R. GIBBONS."

Opinion by the Attorney General.

" HAVING an Extract from the minutes of His Majesty's Council of the 5th March instant, stating that your Excellency was pleased to order that His Majesty's Attorney General do give his opinion, in writing and signed, respecting the opposition and resistance given by Colonel Yorke to the civil power of this Island, and His Majesty's writ out of Chancery, bearing date the Twenty-seventh day of February last, for taking out of the military store 34,671 rations of provisions belonging to His Majesty and required for the necessary subsistence of His Majesty's subjects, the civil inhabitants of this Government.

" In obedience to your Excellency's order I have taken up the consideration of the matter contained in the foregoing Extract and conceiving there cannot be a doubt but that your Excellency as chancellor have full right to exercise the powers entrusted to you by His Majesty and being already of opinion that the issuing of such writ as specified in the said Extract is a part of those powers, I cannot hesitate a moment in giving it as my opinion that due obedience ought to have been paid to the said writ.

" The expediency of the measure, I conceive, is not to come in question here, your Excellency is only answerable to the Crown for the exercise of the powers you are entrusted with. I have the honor to be, &c :

" His Excellency the Governor.

D. MATHEWS, Att. Gen.

(60) Vide DEPOSITIONS on the rescue from the hands of Justice of Henry Hunt charged with felony, (App. C. 317 to 324). WARRANT from the Chief Justice, for apprehending the parties concerned and the *Procurator Marshal's Return*, (App. C. 225); PRESENTMENTS and PROCEEDINGS before the Supreme Court, (App. C. 315 & 326 to 330.) INDICTMENTS of Colonel York for certain Misdemeanors (App. C. 330). *Colonel Yorke's Plea*, (App. C. 331.) and DECISION of the Supreme Court thereupon, (App. C. 467.) viz.

" THE Court having considered a paper exhibited by John Yorke, Esq.

kets, bayonets and clubs, often paraded through the Town at late hours in the night, in an hostile and threatening manner. This induced the precaution of mounting a guard of the Militia, the centres of which at the Lieutenant

" on the first day of this Term, read in open Court, pretendedly, but very improperly, called a plea, concluding with a claim to be dismissed from this Court without trial, upon an Indictment found against him on behalf of our Lord the King for misdemeanor, &c., and, by him, traversed and an issue thereupon joined, and also claiming that the sureties for his further appearance may be discharged: It is Ordered by the Court, that the said pretended plea and claim be disallowed and over ruled, and the said paper considered and declared an insult and contempt towards His Majesty's Authority, Government and Laws, and the honour and authority of this Court. It is further ordered, that, while an armed military force in this Island is employed to obstruct and oppose the executive Civil Officers of Justice, the King's Writs issuing out of any of His Majesty's Courts in this Island, and the warrants, orders and authority, of the Civil Magistracy, their Court cannot with freedom, safety and honour, to itself and the jurors, witnesses, and officers of justice attendant therein, proceed to trial in any criminal matters pending before it, until such military opposition is removed, or subjected to the authority of the Civil Powers of His Majesty's Government in this Island. And it is therefore further ordered by the court, that the indictment, process and recognisances in the cause, our Sovereign Lord the King against the said John Yorke, be continued over until the next Trinity Term Session of this court, on the first wednesday in august next.

" The military force in this Island, having been repeatedly employed in arms to oppose the King's writs and the warrants and process of the civil courts and magistracy, and having opposed, obstructed and assaulted, the civil executive officers of Justice, in the execution of their offices, and having refused and protected and yet protecting from the civil powers, persons taken in custody and charged with criminal offences and breaches of the law. It appears to the court, that His Majesty's Honour, and authority, the laws of the land and lawful powers and authority of the Civil Government and Magistracy in this Island, have been violated and contemned, and that, while such military force continues uncontrolled and insubjected to the process and authority of the civil power, this Court cannot with honour, freedom, and safety, to itself and the jurors, witnesses, and civil officers attendants thereon, proceed to any trials of criminal causes, or pronounce any judgments and sentences thereupon. It is therefore ordered, that all recognisances and examinations taken, returned and pending before this court, be continued over until the next session of this court in Trinity Term on the first Wednesday in August next, or until, by the removal or submission of the said military force to the civil authority, this court shall be enabled to sit, act, and proceed to business in perfect peace, honour, freedom and safety.

" By the Court the 5th May, 1736."

" THO. ASHFELD,

" Clerk of the Crown."

RECORD of *Colonel Yorke's Conviction*, before the Justices of Quarter Sessions, according to the form, force and effect, of the 59th Article of an Act, entitled, "An Act for punishing Mutiny and Desertion, and for the better Payment of the Army in their Quarters." (App. C. 338 to 340). SUMMONS: Col. Yorke to *show cause*, Why the said conviction, judgment and order, should not be affirmed, and a certificate thereof transmitted to His Majesty's Judge Advocate according to the direction of the said Act, (App. C. 342.) AFFIRMATION of the Conviction, (App. C. 343.) the conclusion of which is as follows, viz. "And the said John Yorke, having been summoned did neglect and refuse to be and appear before this Court to shew cause, as is by the said order directed, and did not offer to shew any cause to this Court, why the said conviction and judgment should not be affirmed; It is therefore, by His Majesty's Court of Quarter Sessions of the Peace, now here considered, adjudged and ordered, that the record, conviction and judgment, so made and taken, by and before the Justices aforesaid, be, and the same is hereby, affirmed in all things, and the said John Yorke adjudged and ordered to be *ipso facto* cashiered and utterly disabled to have, or hold, any civil or military office or employment in the Kingdom of Great Britain, or His Majesty's service, according to the form, force, and effect of the Statute in that case made and provided, and that a certificate of the proceedings, record, conviction, judgment, order and affirmation aforesaid, be transmitted to His Majesty's Judge Advocate according to the form and directions of the Statute aforesaid."

Governor's house have been frequently insulted and abused by the officers and men of these nocturnal parties (61).

But notwithstanding all provocation and suffering, the peace was perfectly kept on the part of the inhabitants: nor had there been a single step taken but such as were prescribed by law.

A SMALL BRIGANTINE (*the Rachael*) from Quebec, laden with Flour and Biscuit had, in the beginning of the winter, been driven by stress of weather into Arishat (Conway Harbour) in the Government of Cape Breton, and was there detained in the ice; the Council had advised the obtaining of the provisions in her by purchase, impress, or any means possible (62), but the difficulty was; how to bring them to Sydney, at the distance of an hundred miles of deep forest and interrupted country covered with six feet of snow. So pressing were the calls of hunger now grown, that upwards of an hundred of the inhabitants undertook that journey through perils of which no conception can be formed without adequate knowledge of that country: They were fitted out as well as circumstances would admit: An Officer was sent with them, furnished with an impress warrant; but with directions also, previously to using it, to offer in behalf (of the Crown) to the Master, the prices then current in Halifax for the provisions; and, in case he should be unwilling to part with them without taking the vessel also off his hands, to purchase her by appraisement.

(61) Vide: REPORTS and AFFIDAVITS of the Watch, or Militia Guard, (Appendix 332 to 334.) DEPOSITIONS and Informations (347, 356 & 357.) COMPLAINTS and oppositions to the Officers of His Majesty's Revenue in the execution of their duty on board of the Shallop Fanny, (Colonel John Yorke and Joseph Guion, Owners.) Letter from the Comptroller of the Customs, dated at Sydney, 15th of May 1785. "I beg leave to inform your Excellency that the Shallop Fanny arrived this morning in the Port of Sydney, the Master of which Vessel, having sworn to the contents of the cargo before me, I gave directions to one of the officers under me to examine the cargo on board, which disagreeing with the entry sworn to, as well as with the Clearance, which he produced to me, from Halifax, I gave orders for the immediate seizure of the said vessel and cargo, which was done accordingly. Since which a party of the military have (without any kind of permission from me for that purpose, and in defiance of the officers employed by me in this business) unlawfully landed part of the cargo of the said Shallop, and are proceeding to land the remainder thereof. I beg leave to solicit the advice of your Excellency and the Council on this occasion, and that you will immediately render me such relief and assistance therein, as so emergent and interesting a matter to His Majesty's Revenue requires. I have the honour to be, &c.

W. BROWN, Comptroller.

The Comptroller's DECLARATION on oath before His Majesty's Colonial Council on the 15th May, 1786, together with the DEPOSITION of his officer, &c.

(62) MINUTES of COUNCIL, (holden on 13th March, 1786) which unanimously Resolved, "That the Governor be advised (notwithstanding the great danger and difficulty of the undertaking at this perilous season of the year) to send as many men as possible with (such sleighs, carriages and conveniences, as may be practicable) at all events to bring over land (as speedily as possible) as much of the bread and flour as shall be in their power to transport to Sydney for the present supply of the Inhabitants, until the remainder can be brought by water or other supplies obtained.

"And it is farther the humble advice of this Board to His Excellency, that it may be expedient to dispatch an Express to Major General Campbell at Halifax, as speedily as possible to inform him of the opposition and resistance given by Colonel Yorke, and the military force in this Island to the Civil Government, and of the measures which it has been found necessary to be taken in consequence thereof."

(63) Vide SHIP'S REGISTER, viz:

"Fred. PORT of QUEBEC, Province of Quebec. IN Pursuance Haldimand." "of an Act, made in the Seventh and Eighth of King (L S.) William the Third, entitled, 'An Act for preventing

It is impossible to describe what the men, who had gone, suffered before they got back to Sydney; while the little that remained, after subsisting them on the way, could prove but a slender relief to their families.

The Master of the Rachael preferred, to part with the vessel and cargo; which were accordingly purchased of him: The Vessel (by inconceivable labour) was cut out of the Ice in the Harbour of Arishat and brought along the Coast to Louisbourg, distant only twenty-five miles from Sydney.

Here again, Des Barres had the mortification to find, that designs were artfully carried on to frustrate that extraordinary and spirited exertions of the inhabitants, which were so unexpectedly, or luckily crowned with success.

Before the Rachael had broken bulk, she was properly entered by the officer of the Customs stationed at Arishat, who, as she was only to proceed to a port in the same Government to be unloaded, kept her papers (63) until a better opportunity should occur of transmitting them to Sydney, than either the vessel or the men returning through the woods, who might never arrive safe: and he gave to the Master a receipt for them and a certificate of the entry, for the satisfaction of the Custom House Officers at Sydney, (64).

When intelligence arrived at Sydney that the vessel had

"Frauds and regulating Abuses in the Plantation Trade,"
"Tbo. Anstie, Collr." "Francis Bouché maketh oath, that the Ship the Rachael (formerly the Rachael) of Quebec whereof the Deponent is at present Master, being a square sterned Brig of Sixty Tons, or thereabouts, was a prize condemned in the Court of Vice Admiralty at New York, in the 29th of January 1783, as appears by a former Register now cancelled and that Fran. Bouché the deponent of Quebec, is at present Owner thereof; and that no Foreigner, directly or indirectly, hath any Share, or part or interest therein.
"T. Faunce, D. N. O." "Dated at the Custom House, Quebec, Seventeenth day of May 1785. SWORN before us,
"Tbo. Anstie, Collr. } F. BOUCHE.
"Tbo. Faunce, D. N. O."

"Recorded at the Custom House, Quebec, T. S. C.

"Recorded at the Naval Office Quebec, T. F. D. N. O."

Together with the Cockets Documents and all requisite papers.

(64) CERTIFICATE, (App C. 216). viz. "PERMIT Capt. Joseph Gravois, Commander of the Brigantine Rachael, to proceed with the said Brig, her cargo of provisions, crew, and passengers, to Louisbourg and Sydney. This vessel with her cargo is lately purchased for Government service; reported at this Office and produced her Register, and legal Cockets of the cargo being shipped at Quebec, and bound for Halifax (Nova Scotia) but forced in here by stress of weather, under command of Francis Bouché, the late Master and Owner. Given under my Hand and Seal at Port Conway, this 3d day of April, 1786.
"NIEL ROBERTSON, Naval Officer.

DECLARATION of Joseph Gravois, Master (App. C. 216) viz.

"PORT of SYDNEY, Island of Cape Breton.

"IN the Brigantine (Rachael a Prize condemned at New York) about sixty tons with six men, all of whom are British men besides Joseph Gravois, a British man, master for this present voyage from Arishat in this Island to Sydney aforesaid.

285 Barrels	{ 128 Barrels best Flour 157 Barrels second Flour 190 Bags Flour 134 Bags Biscuit	} For His Excellency Governor DesBarres, at Sydney.
23 Barrels —	13 Barrels Flour, shipped by Mr. Robinson.	
33 Barrels —	33 Barrels Flour, belonging to the Mate.	

331 J. GRAVOIS.
"I do swear that the Entry above written, now tendered and subscribed by me, is a just report of the name of my ship, its burthen, built, property, number and country of mariners, the present master and voyage: And that it doth further contain a true account of my lading with the particular marks, numbers, quantity, quality and consignment of all the goods and merchandises in my said ship to the best of

reached Louisbourg, DesBarres happened to be Five miles from Town, inspecting some of the settlements. An express was sent to him, informing that Colonel Yorke and Mr. Mathews (the Attorney General) were meditating the seizure of the vessel, and that Mr. Uncle, (the Collector) was therein to be supported by 60 men of the military (65).

On his arrival at Sydney, he found that a special and extraordinary Council had been held by the Chief Justice (as President) in his absence. The subject of the deliberation was; that it had appeared to the members present, that there was every reason to apprehend violent and unlawful measures would be taken to seize the *Rachael* and her cargo, then in the harbour of Louisbourg purchased in behalf of His Majesty and destined for the relief of His subjects in the Province, in high contempt of His Majesty, and of the Civil Government.

The resolution and order thereupon were, that two persons therein named, should proceed immediately to take possession of the vessel and cargo, and keep them in safe custody, suffering none to enter board or to seize them, without the express command and authority or warrant of the Governor and Council: and all His Majesty's subjects, Civil and Military, and the Magistrates, were required to aid and assist in that behalf (66).

The Council met again on the following morning, on account of the difficulties on the part of the Collector, to admit the entry of the vessel, or to give permission to unload.

It was ordered that one hundred barrels of Flour should immediately be brought around in Boats to supply the pressing necessity of the people of Sydney and of the vicinity, and that the Collector of the Customs should grant a *Permit* and admit the entry of the vessel, and declare permission to discharge the remainder of the cargo. The

" my knowledge, and that I have not broken bulk or delivered any goods
" out of my said ship since her loading at Arishat, except nine bags of
" Flour, twenty-five bags of Biscuit, and one hundred weight two quar-
" ters of Biscuit, which I have delivered (by Order of His Excellency
" Governor DesBarres the purchaser of the said Brigantine for the service
" of Government together with her cargo) to the (public) workmen be-
" longing to His Excellency at Arishat and elsewhere.
" Sworn before me at Sydney, the 11th " J. GRAVOIS."
" day of April, 1786. W. BROWN, Compt."

DECLARATION of Augustin Marfaux, Mate (*App. C. 216.*) viz.

" PORT OF SYDNEY, Island of Cape Breton.

" AUGUSTIN MARSAUX, Mate of the Brigantine *Rachael*, maketh
" oath and faith, that he was mate on board the Brigantine *Rachael* of
" Quebec a Prize condemned at New York, about sixty tons. That, on or
" about the 10th day of November last, the said Brigantine sailed from
" Quebec with the following cargo, *That is to say*, One hundred and
" twenty-eight barrels of best Flour, one hundred and fifty-seven bar-
" rels of second best Flour, one hundred and ninety bags of Flour; and
" one hundred weight two quarters and nineteen pounds of biscuit, besides
" thirty-three barrels of Flour belonging to this Deponent. That the said
" Brigantine was navigated from the said Port of Quebec by six men be-
" sides himself all British subjects, and Francis Bouché, a British man, the
" master and owner, and bound for Halifax in Nova Scotia. That, on or
" about the 26th day of the said month of November, through stress of
" weather, they were under the necessity of putting into Arishat in this
" Island, in order to repair the said vessel. That before the bulk of the
" said vessel was broke, the said Francis Bouché, the Master, entered the
" said Brigantine with the Naval Officer at Arishat, the only Officer of
" the Revenue then there. That the said Francis Bouché, sold said Bri-
" gantine *Rachael* and her cargo, at Arishat aforesaid, and the same was
" purchased of the said Francis Bouché, by the directions of His Excel-
" lency Lieutenant Governor DesBarres for the use of Government.

" Sworn before me at Sydney, " AUGUSTIN MARSAUX."
" the 11th day of April, 1786.

" W. BROWN, Comptroller."

Collector being called personally before the Board, re-
fused to receive the order; and after it had been read
to him, declared he would not obey it. It was clear, after
this declaration, that unless he should be immediately
disqualified from acting, and, if his powers (as Collector of
the Customs) should be permitted to exist a quarter of an
hour after his departure from the presence of the Board, he
would in that space have set off to make the seizure, along
with such party of troops from Colonel Yorke as would
have kept the provisions ever after, in the manner they had
seized the cargo of the President, and retained the balance
of the 40,000 rations, in defiance of all justice and law; un-
less extreme necessity would have brought the people to risk
dying by the bayonet, rather than with hunger. The
Council resolved that the Collector's conduct, in refusing to
receive or obey the order, to be an high contempt; and his
pretended difficulties to admit the Entry of the Vessel, or
the landing of the Flour for the relief of the people, to be
an intention to famish them, as they were without Bread or
any substitute thereto: and they gave it as their opinion
and advice that it was absolutely indispensable for His Ma-
jesty's service, that he should be suspended from the execu-
tion of his office, until the Royal Pleasure should be known.
He was accordingly suspended (67).

The Comptroller, as the next succeeding Officer of the
Customs, obeyed the order of the Council, by permitting
the hundred barrels to be landed; and the people were so
far relieved. But previously to proceeding farther, he
applied for the Attorney General's *Law Opinion* of the case
of the vessel and cargo, in order, if possible, to fix him
against the future emergencies of the affair.

The Attorney General having been a principal agent in
the conspiracy for seizing the *Rachael*, upon being brought
to the test by the Comptroller, gave an opinion (adapted to

" THE said Augustin Marfaux further maketh oath, that the Flour
" and Biscuit within mentioned, was the whole of the cargo shipped at
" Quebec, and that no part of the said Cargo was landed, until the same
" was purchased by Governor DesBarres for the use of Government.

" Sworn before me, at Sydney, " AUGUSTIN MARSAUX."
" the 14th day of April, 1786.

" W. BROWN, Comptroller."

(65) The Secretary's Information (*App. C. 358 & 466.*) viz. " WE want
" your Excellency very much indeed. The Collector has got advice from
" Colonel Yorke to seize the Vessel at all events: This I had from the Com-
" troller this instant. I applied to him to enter her, he said he should
" attend his Office in proper hours. I wrote him a note, telling him the
" people were starving, and that God only knows the consequences which
" may happen by delaying the Entry. Mr. Mathews has given his advice
" similar to Colonel Yorke. The Mate arrived here between one and two
" o'clock this day; all the papers are clear: I was going to your Excel-
" lency myself, but I thought it necessary to wait until I saw the Chief
" Justice. He is over the water I have sent to him. Gravois must go off
" this night. Be pleased to return immediately. I am, &c.

" If the Vessel is not entered, let the delay happen how it will some
" of the people must starve, 60 men are going off to-morrow."

INSTANCES of Mr. Mathews's Conduct, which rendered him ob-
noxious and odious to the people, will be noticed hereafter.

Mr. Mathews and Mr. Uncle were among the first, who proved them-
selves unworthy of the respectable official situations to which they had
unfortunately been appointed. Mr. Mathews (formerly a petty prac-
ticing Attorney in the back Settlements of the Province of New York)
possessing a great share of low cunning, had, in the period of the troubles
in America, after displaying much seditious zeal, found in affected
loyalty a road to exaltation. Mr. Uncle was originally a Footman.

(66) MINUTES at a Special and Extraordinary Council, holden on
the 10th April 1786, at ten o'clock at night.

(67) MINUTES of COUNCIL, holden on the 10th April, 1786.

his conduct) replete with barefaced perversion of facts and unprincipled conclusions (68).

In this course of intolerable hardships after trying in

(68) OPINION given by the Attorney General, (*App. C. 155.*) viz. "Point Amelia, 13th April, 1786. Sir, I this moment received your Letter of the 12th Instant relative to the Brigantine Rachael, enclosing the Resolution of the Council, Joseph Graves Entry and Deposition and the Deposition of Augustin Marfauz, and informing me also, that in consequence of the suspension of the Collector and the Resolution of the Council, you had given a *Permis* to unload from on board the said Brigantine Rachael now lying at Louisbourg, one hundred barrels of Flour, and requesting my opinion upon the whole of this case, and how you ought to act with respect to the remainder of the Cargo as well as the said Brigantine.

"I conceive no difficulty would have arisen in this case, had Mr. Robertson who acts as Naval Officer at Arishat, (Port Conway) sent forward the Clearance obtained at Quebec; which he ought to have done, and had not the least right to detain. When papers are kept back, it always gives reason to suspect some fraud, and no Affidavit can be regularly received in lieu thereof.

"I farther observe, that Augustin Marfauz the Mate does not mention in his Deposition, what articles were landed at Arishat, nor does he swear that the articles in his Deposition were the whole of the cargo. The distinction he makes between a British Subject and a British Man, I am at a loss to account for.

"The whole proceedings with respect to the said Brigantine and cargo appear to me so very irregular, that, in case no interference of His Excellency and the Council had taken place, I should have advised the seizure of the same; but, as I conceive their orders in such cases will indemnify the Officers of the Customs, it is therefore my opinion that, in the admission of the said Brigantine and cargo, you should have their positive orders for so doing.

"To W. Brown, Esq. Comp. Cust." "D. MATHEWS, Att. Gen.

The Brigantine Rachael and her cargo having been duly entered, was entitled to discharge on the spot as much of the provisions as the men could carry through the woods; and that, without enumeration of such articles, or quantity, further than might be necessary for a satisfactory account thereof to the Governor, who had become effectually amenable for the proper expenditure of the whole; And (being only towed through the ice around the coast of the same Province, to some more practicable or convenient place for being totally unloaded, whether that place might be Louisbourg or Sydney, while the Commissioner was on board all along, (nothing farther was necessary than a Certificate from the Officer at Port Conway (Arishat) of her having already entered with him, and such she had in the most ample and satisfactory terms: Hence then appears the *malus animus* and falsity of Mr. Mathews's general and offensive charge of irregular proceedings, as well as the deliberate absence of justice and legal principle in his opinion of her being subject to seizure on that score. The Attorney General says, "When papers are kept back, it always gives reason to suspect some fraud, and no Affidavit can regularly be received in lieu thereof." If the Vessel had no certificate—If she had not been purchased for His Majesty; nor any Officer on Board all along—If the parties in the Vessel had withheld the papers; then, perhaps, there might be some pretence for suspecting fraud. But when the omission (if indeed any such) subsisted only on the part of the Custom House Officer, it would ill become the Attorney General, to have advised it as a pretence for taking advantage of a private Trader, even under ordinary circumstances—much more so of a vessel and cargo belonging to Government and destined for the preservation of the actually perishing multitude: And the principle to which he applies the rejection of an Affidavit, did not exist in the Case. This he knew perfectly well.

After confounding and perverting facts and principles, he concludes with what might have saved him all the trouble; if he had not felt it incumbent on him to deviate insidiously from the original advice he had given Mr. Uncle and Colonel Yorke for seizing her:—"He says, 'he would have advised the seizure, if no interference of His Excellency or the Council had taken place.' Mr. Mathews knew well: It was universally known that the Governor and Council had interfered previous to his advice for retaining the vessel and cargo by military force. It appears, from the face of the Letter, that the very Minutes of Council, were annexed to the Case laid before him by the Comptroller. Mr. Mathews knew the vessel and cargo had been entered, and brought round to Louisbourg, under the Orders of the Governor and Council and in the possession of their Commissioner. If he thus considered the interfe-

vain all the possible means of remonstrance and conciliation, in hopes that the lamentable effects, obviously arising from illusions under which General Campbell (69)

rence of the Governor in Council, to be sufficient indemnification in the conclusion of the scene, it ought to have averted the original conspiracy to seize her.

The affected objections to the Mate not mentioning in his Deposition, what Articles had been landed at Arishat, or whether the articles in the Deposition were the whole cargo, are inclusively refuted by what has been already remarked; and his quibbles on the distinction between a British Subject and a British Man, only betrays ignorance or perversion.

(69) Vide Correspondence of General Campbell, Colonel Yorke and DesBarres (*App. C. 232* to 300.)

In the course of the Summer 1785, various Reports had been in circulation, that clandestine proceedings, calculated to frustrate the Ministerial measure of colonizing Cape Breton were going on in Nova Scotia, and that in coincidence therewith, General Campbell was meditating to divest DesBarres of the authority which the King had been graciously pleased to give him, and in particular to take from him the command of the Officers appointed under him by His Majesty on the Staff of Cape Breton. Accordingly in the month of October an Order from General Campbell made its appearance; containing a severe censure and threats totally unmerited by the Officers who were the object thereof, viz.

"Head Quarters, Halifax, 4th October, 1785.

"A Letter from His Majesty's Secretary at War, dated War Office, 20th August 1784, Addressed to Major General Campbell, as Commander in Chief, containing the following paragraph, viz. Some alterations having been judged proper to be made in the Establishment of several Garrisons, and new arrangements made, I send you enclosed a state of the same for your information, and am to acquaint you with His Majesty's pleasure, that the several persons appointed should continue resident in their respective stations, or find a sufficient Deputy, in case His Majesty's should think proper on your recommendation to give them leave of absence, in which arrangement are comprehended, Annapolis Royal, Halifax, New Brunswick, Island of Cape Breton, Placentia, St. John's Newfoundland, and Island of St. John. And Whereas Major General Campbell understands that difficulties have arisen in obtaining Returns of the Staff, in particular from the Island of Cape Breton, he has therefore, besides reminding of the nature of subordination and command in general, thought proper in addition to premise the above quotation of their being included in his command; after which he orders and directs, that the Military Staff of the said Island of Cape Breton (comprehending Town Adjutant, Barrack Master, Commissary of Stores and Provisions, Chaplain, Surgeon, and Commissary of Musters) shall be obedient to the lawful orders and commands according to the custom and practice of military subordination and command of the Officer commanding the troops in said Island in subordination to the General, and they are commanded and required, one and all of them to give due attention and obedience to an observance of this order under pain of disobedience of orders, and the pains and penalties thereunto annexed by Military Law.

"JAMES CAMPBELL, Major Brigade."

Whereupon, DesBarres wrote to the General as follows: (*App. C. 232.*) viz.—"I am much concerned at perceiving your disapprobation expressed in an Extract from General Orders, given out at Sydney Camp on the 15th of last month. I beg leave to assure you that the affair must have been strangely misrepresented; for the utmost attention and readiness has ever been, and, I doubt not, will always be shewn by every Officer of the Military Staff of my Government, as well as by me, to obey all orders with which you may think proper to honour me.

"The Barracks will be ready for the reception of the troops in a few days. The weather has been so fine, that hitherto our encamping might well be considered as a circumstance of salubrious and pleasurable choice, rather than one of mere expediency. The Hospital is properly fitted with accommodations for attending the sick; and I am glad to say it is not, nor is it likely to be, crowded. The other necessary buildings and those for the convenience of Colonel Yorke and the other officers will likewise be completed satisfactorily and with proper economy.

"The Provisions brought from Halifax, and those sent from England in the Brig President, consigned to me by the contractors and received on their account (amounting to 250 Rations for eight months) for the supply of the troops are stored in the magazine."

seemed to labour; might in some measure be allayed, DesBarres conceived it to be his duty to transmit home

" My whole attention is faithfully devoted to carry on His Majesty's service in every department committed to my care, with becoming zeal, and there is no reason which can lead me to doubt of securing adequate success: and therein, Sir, I flatter myself with the honour of receiving every proper support from you, &c.

And, on the conduct of the COMMISSARY'S DEPUTY, he again addressed General Campbell, in a Letter dated Sydney, 8th December 1785, (App. C. 243.) viz. " Mr. Storey's conduct having rendered him unfit to act any longer in behalf of the Commissary of this Island, and Mr. Townsend's absence, together with the reliance I had placed in his repeated assurances, that the necessary supply of provisions would be sent for the support of the Settlers of this Government, and which he was to accompany, and, by that means, furnish me with an opportunity of establishing such arrangement as might be best for the King's service, the public interests, and the prosperity of this part of His Majesty's Dominions, have occasioned much perplexity and trouble; particularly in the affair of Mr. Storey, in refusing to comply with my order, given to him in consequence of a representation from the Inspector of the Works, requesting a small supply of provisions for the immediate support of the men employed under his direction, as he could find none to be procured by purchase, viz. to deliver two barrels of Pork for that use, out of the cargo consigned to me by the Contractors, taking care that the same be replaced out of the first provisions, which were daily expected to arrive from Halifax, or elsewhere, for that specific purpose; and acquainting me that Colonel Yorke, would not permit him to obey me."

From the tenor and spirit of the Royal Instructions; of the warrant authorising DesBarres to assemble, and confirm the sentences of, General Courts Martial; of His Majesty's Commission to him; and of the commissions to the several officers of the Military Staff of Cape Breton, it is evident that DesBarres was vested with authority for acting in his District of Government, not only in a civil, but also in a military, capacity; and that the Orders issued by him for the benefit of his Government were to be obeyed.

It was naturally to be hoped, as DesBarres had, at the recommendation of the Secretary at War, been induced, from motives of respectful deference, to agree to the Chief Military Command in Cape Breton, (then intended to be exclusively vested in DesBarres) being continued to General Campbell during the short period which it was represented he might remain in America, that the General would have felt himself the more cheerfully urged to afford every facilitation and assistance in his power in the execution of the service committed to DesBarres's duty. And, if unhappily, it should have turned out that General Campbell, was not in all points the officer DesBarres had been induced to conceive him to be; yet it was not to be imagined that he would weakly or capriciously arrogate to himself any powers in contravention to His Majesty's Orders, tending to subvert the Royal measures.

Placentia and St. John's in Newfoundland were included in General Campbell's chief military command. The Lieutenant Governors (in the absence of the Commander in Chief) held the absolute military command, in conformity to His Majesty's General Orders and Regulations and under the restrictions expressed therein, viz. That they were not to interfere with the regimental duty or economy: This was the observed rule and practice. Major Elford, the Lieutenant Governor of St. John's, was junior in the army to Major Huddleston, who commanded the detachment stationed there, and nevertheless commanded as being Lieutenant Governor of the District.

Extract of the COMMISSARY'S COMMISSION (App. C. 10.) viz.

" WE do by these presents constitute and appoint you to be Commissary of our Stores of War and Provisions for our forces in our Island of Cape Breton in America. You are therefore carefully and diligently, to discharge the duty of Commissary of our Stores of War and Provisions, by doing and performing all and all manner of things thereto belonging, and you are to observe and follow such orders and directions, from time to time as you shall receive from Us, Our Governor of our said Island for the time being, or any other your superior officer, according to the rules and discipline of War."

Extract from BRIGADE-MAJOR CAMPBELL to COLONEL YORKE, (App. C. 233.) " The General expects that provisions that may arrive, in which ever manner they may be consigned, or for whomsoever intended, are to be put in the charge of the Acting Commissary, to be issued under your directions as military commanding officer."

the whole proceedings to be laid before His Majesty: And the Chief Justice, having, in the Su-

COLONEL YORKE, in a Letter to DesBarres, dated 3d March 1786, (App. C. 235.) viz.

" I beg leave to observe, that His Majesty's instructions positively declare that the orders of the Commander in Chief in all Military Affairs in the Civil Governments in America shall be supreme; and, His Majesty having directed [Query] that the Provisions allowed to the settlers are to be issued under the orders of the Commander in Chief, I think there cannot be a doubt of this being a Military matter.

ADDRESS from the Inhabitants, 14th Feb. 1786, (App. C. 463) viz.

" WE beg leave to observe to your Excellency, that we are informed some Persons in this Island under the appellation of Loyalists, and by the management, advice and direction of others, who are endeavouring, to embarrass and obstruct the Plan of Government established by His Majesty in this Island, under your Excellency's Administration, have been induced to make application for an allowance of Provisions to Colonel Yorke Commanding Officer of the 33d. Regiment of Foot, without having first made any application to your Excellency, as His Majesty's Civil Governor and the Patron and Guardian of His Majesty's civil subjects under your Government, and the immediate and proper dispenser of the Royal Bounty among them.

" This measure we are, Sir, fully convinced has been taken for the express purpose of insidiously wresting from your Excellency one of the powers delegated to your Excellency, by Our Gracious Sovereign for the good of His faithful subjects in this Island, and for effectuating the wise and beneficent purposes of rendering your Government a flourishing, populous and advantageous settlement, and to prevent its becoming a striking foil to neighbouring parts of His Majesty's Dominions, which (from a contaminated and partial system of administration) have been impeded from improving those advantages which Providence bountifully bestowed. We are sensible, Sir, that every mode, measure, and manœuvre, has been put in practice to obstruct your administration, and are sorely and interestedly concerned to find that our views and prospects in becoming Settlers in your Government are likely to be blasted and ourselves involved in ruin thereby, and the national and particular advantages to be drawn from the speedy settlement and improvement of this Island are likely by those means to be obstructed, if not totally defeated; unless His Majesty shall be graciously pleased to grant to your Excellency, such further support as may enable you to carry into full execution His Royal Intentions in delegating the powers to your Excellency expressed in your Commissions and Instructions.

" We earnestly beg, Sir, your Excellency will be pleased to represent to our August Sovereign the melancholy prospect, that (from Military influence and interference at present obstructing the progress of this Island) presents itself to the apprehensions of His Majesty's faithful subjects in this district of the British Government.

" We must take the liberty of observing to your Excellency, that the unjust mode of having the Royal allowance of Provisions issued to the civil inhabitants of the neighbouring Province of Nova Scotia, by and under the arbitrary and partial directions of a military board and orders, has been greatly injurious to that description of His Majesty's subjects in that Province, and if allowed and adopted in your Government will discourage useful and industrious settlers, intitled to that allowance, from settling themselves therein.

" We must in illustration entreat your Excellency's pardon, when we mention that, this arrogated power by the Military Department, which we humbly, and with great reason, believe to have originated from Governor Parr's having neglected, or refused to furnish himself with, or draw Bills for provisions, allowed by the King to His Civil Subjects resident within his Government, and thereby compelling them to apply to, and receive from, the Military Department, the subsistence which His Majesty had been graciously pleased to order; in consequence whereof the Military Commander thought fit to appoint a Military Board, to regulate and allow such claims as by its partial and capricious opinions might be adopted, by which means many indigent and suffering subjects were obliged to come from very distant parts of the Province, at great Expence and loss of time and labour, to solicit a subsistence promised to them by the Crown: Many of them were insulted and their claims rejected on frivolous pretences, and themselves and families reduced to beggary and want, and obliged to sell the lands granted to them by the Crown for very inconsiderable prices to those, who, from the favor of the Military Board, were enabled to live in affluence and avail themselves of their distresses. Many of the just solicitors of this Military Board, after many weeks expensive attendance, were dismissed

preme Court of Judicature, solemnly declared that he could no longer with effect and in safety to himself, and to

" with insult and contumely, on frivolous pretences, without the least relief.
 " We feelingly lament, Sir, that a system so unconstitutional, so partial, so unjust and so prejudicial, to His Majesty's service, and the settlement and success of your Government, should be attempted to be introduced into it. And we beg leave to remonstrate to your Excellency, as His Majesty's immediate Representative in Cape Breton, that we must (if such a system is permitted) give up all our hopes and prospects of becoming permanent Settlers in this Island, and we fear that no other Settlers of property or industry will be induced to become our successors, or seek an asylum in a territory so unhappily circumstanced.

" In the highest degree grateful and loyal to His Majesty, and thankful for His favors in erecting this Island and its dependencies into a separate Government, and happy in having your Excellency appointed to Govern us, it is no less painful to us to be compelled to trouble your Excellency with this Address.

" We hope and entreat your Excellency, will lay at the Foot of the Throne, the Cries and Complaints of His Majesty's faithful Subjects under your Government.

Signed by above one hundred of the principal Settlers,

PETITION from the Inhabitants relative to Criminals sent by General Campbell to Cape Breton, (App. C. 302.) viz:

" To His Excellency Joseph Frederick Wallis DesBarres Lieutenant Governor, and Commander in Chief of the Island of Cape Breton and its Dependencies, &c. The Memorial and Petition of the Merchants, Traders and other Inhabitants of the Town of Sydney.

" Humbly Sheweth,

" That your Memorialists have been put to a great deal of inconvenience and trouble by Three Men, one or more of whom have lately been branded in the hand at Halifax for some crime. These people have entered our houses and behaved in a most disorderly and ruffian like manner. We humbly conceive that they have been sent from Halifax with a pointed view of giving a public affront to this Government, and it appears to us to wear the same complexion of other scandalous manoeuvres that have been contrived by the enemies of this rising Settlement. We wish to guard the lowest order of men amongst us from insult, and preserve them from the contamination which such wretches, as have been landed from the Brigantine Brandywine would probably have infected them with.

" We humbly pray that your Excellency will be pleased to give immediate orders, that the said Three Men should be taken into custody, and sent on board the said Brigantine Brandywine, and that the Captain be obliged to give Bond that he should carry them out of this Island, and not to reland them on any part thereof, or in any part of its Dependencies. The compliance of your Excellency with this our dutiful Memorial and Petition will add to the many obligations we have received from our Governor as Guardian of our Civil Rights and Liberties. We have the honor to be with heartfelt gratitude, Sir, your Excellency's most dutiful and most faithful humble servants,
 " Sydney, 13 Dec. 1785." *Signed by above forty of the principal Settlers.*

ANSWER of the Governor.

" Let two or more of the Magistrates of the County of Sydney immediately take the measures prescribed by law, in respect to the merits of this Petition.

SUMMON. Capt. Wm. Duggan to shew cause why he should not be compelled to carry back the Vagrants brought by him, by order of General Campbell to their last place of Settlement (App. C. 303.)

" SYDNEY, ff. Whereas William Duggan, Master of the Brigantine or Vessel called the Brandywine, now lying at anchor in the Harbour or Haven of Sydney in the Island of Cape Breton, hath landed Dennis Leary, Thomas Kelly and John Murphy, Vagrants not belonging to this Island or its Dependencies. These are therefore in His Majesty's name, to require you to summon the said William Duggan to appear before us forthwith, at the Office of the Governor's Private Secretary, to shew cause, if any he hath, why he should not be compelled to carry back the said Vagrants to their last place of Settlement. Given under our Hands and Seals, this 14th day of December, in the 26th year of the Reign of Our Sovereign Lord King George the Third, by the Grace of God, &c. &c.

" To the Constables for the County of Sydney, or any one of them.

" ALEX. HAIRE, J. P.
 " GEO. RODGERS, J. P."

the Jurors and Witnesses, carry on the Administration of Justice in the Colony (70), was directed, by Advice of His

ORDER from General Campbell to carry Criminals to Sydney, who were clandestinely landed there accordingly, (App. C. 205) viz:

" SIR, Head Quarters Halifax 23d. November, 1785,

" Major General Campbell directs and orders that you receive on board the Brig (the Brandywine) whereof you are Master, three persons that will be sent on board by order of the Civil Magistrate to be carried to Spanish River (Sydney), they are criminals for Petty Larceny, their characters will therefore warn you to be upon your guard against them during the passage, and to have a watchful eye over them, that they attempt nothing to the danger or prejudice of the vessel. And for so doing this shall be your warrant and authority,

" I am, Sir, your most humble Servant,

" JAMES CAMPBELL, Major of Brigade."

" Capt. Duggan, Commanding the Government Brig, the Brandywine."

" DECLARATION and Warrant (App. C. 206) viz:

" SYDNEY, ff. The Examination of Dennis Leary and Thomas Kelly, rogues and vagabonds, taken on oath before Thomas Uncle and George Rodgers, Esquires, Two of His Majesty's Justices of the Peace for the said County of Sydney, the 14th day of December, in the 26th year of His Majesty's Reign, who on Oath (each being severally sworn) declare, that they are natives of Ireland, that their place of residence for the last twelve months was in the Town of Halifax in the Province of Nova Scotia, where they were convicted and burned in the hand, for the said Crime, that the Deponents went from the place where they were so burnt in the hand to the Workhouse at Halifax aforesaid. And were ordered from thence to the Brigantine Brandywine, (as they understood by Hugh Kelly, Keeper of the said Poor House) that the Captain William Duggan of the said vessel, on their arrival at Sydney, ordered them on shore to do as they please, but not to follow him.

" Taken and Signed the day " DENNIS & LEARY, his Mark.
 " and year above written, " THOMAS & KELLY, his Mark,
 " before us the above said,

" THOMAS UNCLE, J. P.

" GEO. RODGERS, J. P."

" SYDNEY, ff. Thomas Uncle and George Rodgers, Esquires, Two of the Justices of Our Lord the King, assigned to keep the Peace within the said County, to William Duggan, Master of the Brigantine or Vessel called the Brandywine, now lying at anchor in the Harbour of Sydney, and bound to Halifax in the Province of Nova Scotia.

" WHEREAS you the said William Duggan have landed from the said Brigantine the Brandywine, Dennis Leary, Thomas Kelly and John Murphy, vagrants, not belonging to this Island or its Dependencies. These are therefore in His Majesty's name, to require you to take on board the said ship or vessel, Dennis Leary, Thomas Kelly and John Murphy, vagrants, all of them being Inhabitants of Halifax in the Province of Nova Scotia, and having no settlement in the Island of Cape Breton or its Dependencies, and carry them to Halifax in the Province of Nova Scotia aforesaid, or such other place in that Province as you may arrive at. Given under our Hands and Seals at Sydney, in the said Island of Cape Breton, the 15th day of December 1785, in the Twenty-sixth Year of His Majesty's Reign.

THOMAS UNCLE, J. P.

GEO. RODGERS, J. P.

ADDRESS presented by the Merchants, &c. on the 27th of March, 1786 (App. C. 460) viz.

" To His Excellency Joseph Frederick Wallis DesBarres, Esquire, Lieutenant Governor of His Majesty's Island of Cape Breton, &c. &c. &c. in COUNCIL:

" We the Merchants, Traders, and other Inhabitants, of the Town and County of Sydney, humbly beg leave to assure your Excellency in Council, as we have no other mode of making our Sufferings and Grievances known unto you (not being represented by a House of Assembly) that we are sincerely sorry to have such frequent cause of thus publicly addressing you. But as our Sufferings daily encrease, we shall openly and candidly lay them before you.

" We are fully sensible that it was highly reasonable to expect that a Regiment of British Officers and Soldiers to be stationed amongst Us, was a desirable object, as it would not only contribute towards our security against foreign enemies, and be of great assistance in the necessary labours of our Infant Settlement; but also, and more particularly, would prove a loyal support to the Civil Authority of His Majesty's Gracious Government, established for our happiness and the advantage of the British Empire.

Majesty's Colonial Council, to proceed to England, with the documents and proofs of the transactions that had taken

" Although it is well known to us, that from the time the 33d Regiment was destined to be sent from Halifax to this Island, every means were used to poison the minds of both the Officers and Soldiers with the most virulent prejudice, in order to incite them to discontent, opposition, and sedition; yet, we could not have imagined that Colonel Yorke (however destitute of any notions exclusive of such as relate to his profession) would, as a British Officer, suffer himself to be employed, by the enemies of the prosperity of this His Majesty's Government, as a mean and wicked tool, to counteract our faithful and loyal efforts to support your zealous endeavours, for rendering this Government of importance to the British nation our true parent.

" His views, in calling from house to house among the Inhabitants with an affected concern, and promising favours to those who should be prevailed upon to urge any complaints, having (upon detection) failed, he proceeded to convey to some of the Members of the Legislative Council of this Government such threats, as left them no longer at liberty to give their faithful and impartial advice, opinion and assistance, for the benefit, success and prosperity, of this His Majesty's Royal Government, and of His loyal and faithful civil-subjects therein: Self-preservation made it eligible to those members to withdraw from the Council: Some of them, who had before been secretly tampered with, threw off the mask of their infamy, and have since openly abetted and encouraged the infatuated Agents of our avowed enemies in their palpable design of breaking up the Civil Government of this Island.

" Colonel Yorke's designs are so fully and clearly understood by us, and we have the confidence to assure your Excellency and the Honorable Council of this Island, that we, with one accord, think that there is not another Officer in the British Service that could, unmoved, have seen upwards of one hundred brave, loyal and worthy, subjects, of this Government leave their wives and families, and risk their Lives at this perilous season of the year in a Journey to Arifhat, (distant more than one hundred Miles from this Town) to save themselves and their families from famishing when he, it is well known to us, had a sufficiency for their supply and for the troops under his command until the last day of June, and which he was otherwise bound by every tie of honour to deliver to your Excellency, for the support of the Civil subjects of this Government, by the receipt passed by your Excellency to him with the advice of His Majesty's Council of this Island, which he publicly acknowledged.

" That his subsequent conduct, in ordering a patrol to range through the said town to the number of thirty men with arms and fixed bayonets, besides each man carrying a large bludgeon, with other unaccountable circumstances that every night occur, denote to us that our lives and properties are not safe, and the threats made use of by the said patrols appear to us to confirm the opinion of his intention of usurping a military command to subvert the Civil Government of this Island, and to destroy in every sense the Public Tranquillity.

" We beg leave thus publicly to express our abhorrence and utter detestation at the unprincipled conduct of such of His Majesty's Civil Subjects and Inhabitants of this Island, who are encouraging and abetting the said agents of our enemies in acts of sedition and violation of the laws of the land, and we most humbly pray that your Excellency and Council may be pleased to exert every legal power, and make use of all proper steps, efficaciously to defeat their endeavours calculated for our destruction.

" We have farther to assure your Excellency and the Honourable Council, that we shall ever use our utmost endeavours to aid and assist you in the arduous task of establishing the Civil Government and Settlement of this Island, and shall ever consider it our duty, and the assured spring of the happiness of our posterity to be known by our Gracious King, as His most faithful and loyal subjects, ever zealous to support His Royal Authority in His Parliament as the supreme rule of this and every other part of His dominions."

" We are with sincere attachment and great regard, your Excellency's, most obedient humble Servants,

" John Smith, Will. Plant, David Hall, Tho. Ashfield, Cha. Kitson, Tho. Jenner, Will. Blackburne, Alex. McDonald, John McDonald, Robert Young, Alex. Mathuson, James Jobs, Charles Cope, Robert Richardson, Thomas Pitts, John Buttle, Hen. Archer, Edward Pate, Wm. Deane, John Davison, Patrick Shea, Smith Woodroffe, Stephen Molineux, Robert Hodge, Mathew Obrien, George Hacket, Hugh Hors, W. Grigg, Joseph Rodderham,

place, in order to explain the state of affairs fully and furnish all requisite elucidations to His Majesty's Ministers: and

" John Gruntmeyer, Robert Graham, James Maddox, Tho. Coleman, Samuel Smith, Tho. Skelton, Hugh Watts, Ben. Swain, Wm. Smith, James Fitzgerald, Tim. Newman, Archibald Forest, C. N. Roland, &c.

(70) *Address of the Chief Justice to the Grand Jury, Supreme Court Easter Term, 1786, (App. C. 335) viz.*

" Our excellent system of jurisprudence, on which our lives, our liberties, our properties, our peace and security, so greatly depend, cannot be carried on with that impartiality and energy necessary to give it a due weight and influence to effect those desirable purposes, if the Courts of Justice and Civil Magistrates appointed for carrying the laws into execution, do not fit and act in their official capacities in perfect safety, peace and security; free from the remotest apprehension, or danger, of insult; forcible opposition, resistance, interruption and violence. It cannot but be well known to you all, that for some time past it has been the misfortune of this Government to have had a strong Armed Military force employed to oppose the executive officers of justice in executing the King's Writs, and the Warrants, Orders and authority, of the Civil Magistrate: That persons actually in custody, charged with high crimes of criminality, have been by force of arms rescued out of the hands of justice, and protected and guarded against its authority: That this force and opposition to the civil power has been employed, countenanced, and supported, by those whose duty it was to have given every possible aid and assistance to the Civil Power and executive officer, whenever it might have been thought necessary and required; but which, on such occasions and requisitions, has been refused."

" Under these circumstances I cannot think this Court now fits in that state of peace, safety, and security from insult and opposition, as to enable us to proceed upon the Crown business now pending before this Court; that neither you Gentlemen of the Grand Jury, the Petit Jury, the witnesses for the Crown, and executive officers of justice, can be considered at present in such a state, as, with confidence and safety to execute your several duties with that free and uninfluenced impartiality which is necessary to a due execution of the laws, until the force that has been employed to oppose the Civil power is removed, or rendered subject and submissive to its authority; That it would be dishonourable to the King's authority, and a mockery of the law, to proceed vainly to carry the laws into execution while the Civil jurisdiction wants the aid and assistance necessary to give effect to its judgements and process."

" I shall therefore not order at present any criminal business to be laid before you, but continue all the Crown business now before this Court until the court can sit, and act, with that freedom, safety and security, and have that obedience paid to its authority, which is essentially necessary for a free, due, regular and impartial, execution of the laws."

" You may be assured, Gentlemen, Our Most Gracious Sovereign will not suffer his faithful subjects to want a due and vigorous execution of the laws. That His Majesty will not suffer His authority, or the rights, liberties and privileges, of his people, to be violated or contemned with impunity, and I trust the day is not far distant when we shall sensibly feel those benignant exertions of the Royal Powers and Authorities. In the mean time let me recommend earnestly to you, to observe yourselves and to inculcate among the people, a firm, peaceable and patient, conduct, under the present difficulties, and a perfect reliance on His Majesty's goodness and justice for relief.

" I shall not now discharge you, but continue you on the the panel until the close of this session; but will not require your further attendance unless you shall have notice to assemble and attend."

Vide ORDER of the SUPREME COURT, (App. C. 467).

ADDRESS of the GRAND JURY. *Supreme Court 10th May, 1786, (App. C. 336) viz.*

" To the Honorable Richard Gibbons, Esq. Chief Justice of the Island of Cape Breton and its dependencies.

" WE His Majesty's loyal and dutiful subjects, The Grand Jurors now on panel for the Island of Cape Breton, beg leave to address you Honour and to return you our most sincere thanks and grateful acknowledgements for your speech made to us in the supreme court on Friday the 6th instant.

the Examiner of the Public Accounts was sent with him, to evince, as well the necessity of the expenditures as the rec-

" We are well assured of the truth of what you have been pleased to say that our excellent system of jurisprudence, on which our lives, our liberties and properties, our peace and security, so greatly depend, cannot be carried on, with that impartiality and energy, necessary to give it a due weight and influence to effect those desirable purposes, if the Courts of Justice, and Civil Magistrates, appointed for carrying the laws into execution, do not fit and act in their official capacities in perfect peace and security, free from the remotest apprehension or danger of insult, forcible opposition, resistance, interruption and violence."

" We most feelingly deplore, that it has been the misfortune of this Government to have had a strong armed military force, actually employed in the most glaring and insulting manner to impede the officers of justice on several occasions, and, in a most unprecedented manner, to rescue a felon under the eye of the commanding officer of His Majesty's 33d. Regiment of Foot, when under charge of an executive civil officer and a guard of citizens conveying him to prison: and as an aggravation to this most daring act, it was done by commissioned officers of the said Regiment; Nothing could possibly have given us more satisfaction than your Honor's orders for continuing all criminal causes now pending before the Supreme Court over, until the Court can sit and act, with that freedom, safety and security, and have that obedience paid to its authority, which is essentially necessary for a free, due, regular and impartial, execution of the Laws; At the same time we do assure your Honor, that altho' we might in all probability have received injuries from the military and the few discontented people amongst us for doing our duty to our King, our Country, and our glorious Constitution; yet, we were determined as honest men to sacrifice our fears and apprehensions, to the public weal, and we should have executed our office with steadiness, uprightness and the most distinguished impartiality."

" We are confident, with your Honour, that His Majesty will not suffer his authority to be violated by any set of men, and we hope that (ere long) we shall see an end to our troubles through the benignant exertions of the Royal power. We shall, agreeable to your recommendation, oblige ourselves, and inculcate among the people, a firm, peaceable, and patient, conduct under the present difficulties, and we do assure your Honour, that, we have a perfect reliance on His Majesty's goodness for relief."

" We have remarked with the most heart felt pleasure and satisfaction ever since your Honour has presided over us as His Majesty's Chief Justice, that you have faithfully endeavoured to guard the constitution and save it and His Majesty's authority from insult; and are sorry that your patriotic and impartial conduct has not met with the desired and merited success."

" Allow us to offer you our sincere wishes for your health and happiness, and that you may live long to support and defend the British laws is our ardent prayer. We have the honor to be with the greatest respect, Sir, your most obedient and most faithful humble Servants."

" Thomas Jenner (Foreman) William Brown, Archibald Forrest, John Smith, Charles Cope, John Willison, William Blackburn, Robert Young, John Cameron, Henry Roberts, Smith Woodroffe, Hugh Watts, Terence Macaristine, Charles Kitson."

ADDRESS of the CHIEF JUSTICE. *Supreme Court, May 11, 1786, (App. C. 337.) viz.*

" I RETURN you my best and sincerest thanks for your obliging Address: If any thing could have increased my ardor and most zealous endeavours to give the fullest efficacy to a just and impartial execution of our excellent laws, and just support to the honor and authority of the Crown, the Civil Government in this Island, and the rights, liberties, properties and security, of His Majesty's faithful subjects, Inhabitants of Cape Breton, so great and honorable a testimony of your approbation of my public and judicial conduct since my arrival among you could not have failed to effect such an increase of my exertions."

" Permit me, Gentlemen, to assure you it ever has been and ever shall be my unremitting endeavor to render my office, and the judicial administration of this Island, a support to His Majesty's honor and authority, and a blessing to the virtuous, honest and industrious, inhabitants in this Government."

" May the currents of Truth and Justice ever freely flow among yourselves, your posterity and successors, uncontaminated with ignorance, partiality and corruption, at the fountain, or perversion, opposition, or interruption, in the stream."

" That the constitution, and execution of our system of jurisprudence, may be such as to promote and diffuse general happiness, security,

titude of the Accounts (71).

The detachment of the 33d Regiment was relieved in

" virtue and peace; that we and our posterity may thereby justly become and remain the objects of envy and admiration, and (if possible) of emulation and imitation, to some of our neighbours."

" It is highly flattering and pleasing to me to receive such warm assurances, from so respectable a body of the people as the Grand Jury, and, I doubt not, it is likewise the sentiments of almost all the Inhabitants to give the most spirited, firm, and active, aid to, and co-operation with, me, for obtaining a due proper and free submission and obedience to the laws from all classes and descriptions of men, and securing to ourselves and the public community, the blessings and peace which those laws were calculated to promote and secure."

" Gentlemen, as I told you before, not knowing what emergencies may happen during the Session of the Court to occasion your being called together, I cannot think it expedient to discharge you from Panel until the Session shall close, but I will not call you from your private avocations at this busy season, unless such an emergency should arise. I will therefore now give you the Public Thanks of the Court for your ready attendance and services this Term, and, if the Court should be closed for the Term without further notice, you will then consider yourselves as discharged."

Extract of an ADDRESS, on the 19th May 1786, from the Inhabitants (App. C. 470.) viz.

" That the neighbouring Colonies are endeavouring by insidious arts to misrepresent and interrupt the progress of this Settlement. We have seen an armed military force, (countenanced and encouraged by four or five turbulent inhabitants, in direct violation of all law and order, subverting and annihilating all Civil Authority whatever, although in time of profound peace: not only in the instance of preventing the execution of the King's writs, and rescuing offenders under capital charges; but we have seen also His Majesty's Revenue Officers threatened with their lives, and, under such fears compelled to fly for safety, while a Party of Soldiers under the direction of their Officers have landed, and carried off prohibited goods liable to duties after they had been seized, marked, and taken into the custody of the Revenue Officer, in defiance of all Civil Authority, in utter contempt of the Revenue Laws, His Majesty's Crown and Dignity. It is well known to us, that, from the time the 33d Regiment was intended to be sent from Halifax to this Island, every mean artifice was used to poison the minds, both of the officers and soldiers, with the most virulent prejudice to incite them to discontent, opposition, and sedition."

" We are also conscious that every possible endeavour has been made to disappoint your Excellency in obtaining provisions, absolutely necessary to prevent the Inhabitants of Sydney and its neighbourhood and their families from perishing by famine, during the late winter, and to compel them to solicit from the military, as charity, a precarious and arbitrary subsistence, upon the base condition of renouncing the protection of the Civil Law and of deserting and opposing your Excellency's Authority and Government, and joining the enemies of both for their subversion and overthrow. That one hundred of the Inhabitants of Sydney, when reduced to the utmost want and distress (disdaining to relieve their wants by shameful, treacherous, and wicked desertion from His Majesty's Civil Government and renunciation of the protection of the laws of the land) did, at the imminent danger of their lives and through the utmost perils, dangers and difficulties, in the depth of winter and through a wild uncultivated country) leaving their Wives and Families to the care of Providence and your Excellency) proceed from Sydney to Arrivat on the Richmond Isles, (distant more than one hundred miles) to bring by hand some small part of the bread and flour, which your Excellency by accident had there fortunately procured, in order to save the lives of themselves and families.—And this, although the military had them in store at Sydney, and, by force of arms, detained from your Excellency, a large quantity of provisions.—That, after the military had openly taken up arms in opposition to the Civil Government, parties of soldiers, in number from eighteen to thirty, headed by one or more commissioned officers, armed with bludgeons, muskets, bayonets, and large clubs, every night at very late hours in an hostile, insolent and threatening, manner, marched among the houses and dwellings of the civil inhabitants, and they abused, insulted and threatened, your Excellency's House and the Civil Guard, (or Watch) there stationed during the night for your protection."

" Under these circumstances, we entreat your Excellency, will most humbly represent our grievances to His Majesty, not doubting an immediate relief from the terror and apprehensions which we are at present under, by not having the protection of those wise and salutary laws,

June 1786, by another detachment under the command of Lieutenant Colonel Charles Graham, who (as he said) to pursue Colonel Yorke's line of conduct and for which General Campbell had given him *Secret Orders*. Upon the arrival at Halifax of the former Detachment, a General Court Martial was instituted and Lieutenant Nor-

ford, in consequence of having on the 1st of March preceeding expostulated with Colonel Yorke on the illegality of opposing the Civil Authority of Government, was tried and sentenced to be cashiered. But His Majesty's Royal Justice did not think fit to confirm the Sentence of this Court Martial (72).

" which form the British Constitution and are so justly the admiration of all nations.

" The influence which those violences have had upon the minds of persons intending to become settlers, is too obvious to need a comment: some thousands of valuable Settlers have been prevented from coming, well knowing that their persons and properties would be unsafe where an armed military force had usurped the power of superseding the laws of the land.

" We cannot conclude without assuring your Excellency of our disposition to rest most patiently, under these grievances, in full reliance, that the time is near at hand, when we may all be secured by the administration of the Courts of Justice and the removal of all opposition to the Civil Government of this Settlement.

" We lament the particular situation of your Excellency, whose care and attention has been unwearied in endeavouring to promote the peace, harmony and welfare, of the whole Island, and we hope the arduous task of forming a New Settlement will be soon amply compensated by its rise and prosperity, and that your Excellency may long enjoy the prospect of its success.

" We enclose our humble address to His Majesty, which we beg your Excellency will have the goodness to transmit as soon as possible.

" We are with sincere attachment, &c."

Signed by above one hundred of the principal Inhabitants.

ADDRESS from the Inhabitants to His Majesty, on the 19th of May 1786. (App. C. 471) viz:

" To the KING's Most Excellent MAJESTY.

" We your Majesty's most dutiful and loyal subjects, Inhabitants of Sydney in the Island of Cape Breton, beg leave to implore your Majesty graciously to hear the Prayer of your dutiful subjects.

" We humbly represent to your Majesty that we have become settlers in this Island, which has an extensive Fishery on its Coast, and is furnished with a variety of internal productions and a fertile soil; but, as we are necessitated at the beginning to provide ourselves with habitations and to clear our lands for cultivation, it will be a considerable time before the harvest of the most indefatigable industry can afford us a requisite subsistence.

" We therefore most earnestly beseech your Majesty to grant a supply of Provisions for ourselves and families, similar to the allowance which has been hitherto given, by your Majesty and your Royal ancestors, to adventurers settling a New Colony.

" We are convinced, may it please your Majesty, that, with your Royal Bounty, under the auspices of our Excellent Governor Joseph Frederick Wallis Esquire whom your Majesty in Your great wisdom has appointed to preside over us, this Island will become one of the most valuable Gems in the British Crown.

" We earnestly pray that God will keep your Majesty and your Royal Consort and Family, in his holy protection and grant you long life, health and happiness.

" We glory in being your Majesty's dutiful and loyal subjects, and as such subscribe ourselves with the utmost reverence:

Subscribed by above one hundred of the principal Settlers.

(71) MINUTES of the Colonial Council, on the 2d of June, 1786.

(72) *Extract*: COLONEL YORKE, to Brigade Major Campbell, dated Sydney, 1st March 1786, (App. C. 360) viz.

" I am to acquaint you for the General's information with the extraordinary conduct of Lieutenant Norford of the 33d Regiment. He was the Officer on duty this day; and, as I had some reason to think the Civil Power might make some attempt on the provision Store, I sent for him to give him directions how to act; but, to my utter astonishment, he positively refused to obey my Orders, and said he should not resist any Officer of the Civil Power, but would allow them to take possession of the Store. I immediately appointed another Officer, and the Officers have since requested that he may not do duty with them 'till they are honored with the General's sentiments on this extraordinary affair."

Extract: MAJOR GENERAL CAMPBELL to Colonel Yorke, dated Halifax, 6th April, 1786, (App. C. 360) viz.

" Lieutenant Norford's conduct, as represented in your Letter to Brigade Major Campbell for my information, I consider highly criminal and dangerous to be overlooked for the good of His Majesty's Service; you will therefore order him under arrest for *Disobedience of Orders*, and either send him to this Place to stand his Trial, or, should the talked of relief for your Regiment arrive before an opportunity offers for this Place, you will carry him with you to England to be tried there. Should he be sent to this Place, the necessary Evidence to prosecute him must accompany him."

Extract: TRIAL of LIEUTENANT WILLIAM NORFORD, of His Majesty's 33d Regiment of Foot before a General Court Martial, holden at Halifax in Nova Scotia, from the 23d of June to the 4th of July 1786, by Order of Major General John Campbell, for declining to oppose the Authority of His Majesty's Civil Government, (App. C. 360) viz.

" Friday, 23d June, 1786.

COLONEL JOHN YORKE of the 33d Regiment. *Sword.*

" Between the 24th of February and 1st of March last, I directed the Adjutant of the 33d Regiment, to inform the orderly Officer of the Day, that, as I had reason to believe that a warrant was to come forth to take possession of the military Provision Store, he should, if such a proceeding was attempted, take with him the Barrack Guard and cover the entrance, and he was on no account whatever to suffer any person to go into it without my special leave. On the 1st of March, I was acquainted the Provost Marshal had a Warrant to take possession of the Store, and meant to carry with him the *posse comitatus* to force it open, if he was refused admittance.

" The Prisoner Lieutenant Norford was the Orderly Officer: I sent for him to my quarters in the presence of Captain Stewart, to give him directions how he should act in case of such attempt, as well as to prevent any accidents happening from the impetuosity of a Mob; and, on my proceeding to give him Orders relative to the security of the Store, to my utter astonishment, he refused to receive my orders, and said he should not hinder the Civil Magistrate taking possession of the Store. I represented to him the danger he exposed himself to by *Disobedience of Orders*, and that he was in this instance to consider this order as the Order of the Commander in Chief. He replied, that, as he had ever been brought up to pay a due and implicit obedience to the Civil Power, he could never reconcile a disobedience of their mandates. I therefore thought it necessary to order another Officer upon duty, and the Officers of the Regiment, conceiving Lieut. Norford's conduct highly reprehensible, requested he might not continue to do duty, 'till they should be honored with the Commander in Chief's sentiments on this business; which being reported to Major General Campbell, he directed him to be put under arrest."

The *Orderly Book* was laid before the Court, by which it appeared that Lieutenant Norford, was in Orders for *Officer of the Day* for the 1st of March.

CAPTAIN STEWART was *Sworn*, and confirmed the latter part of the Evidence given by Colonel Yorke.

Monday, 26th June, 1786.

The Prosecution being closed, the PRISONER was put upon his Defence.

Question by the Prisoner to Colonel Yorke. " To whom were the provisions in the provision Store, referred to in your direct examination, consigned.

A. " One part of those provisions came round with the Regiment: another part came in the Brigantine President, consigned to Lieutenant Governor DesBarres for the use of the garrison, which were delivered up to the Assistant Commissary: and a third part arrived in the Brandywine, consigned to me by order of General Campbell.

Q. " Did Lieutenant Governor DesBarres ever make a Requisition to you for any of those provisions, for the supply of the necessities of the King's subjects settled in the Island of Cape Breton? If yea; at what time, and for what quantity? And did you engage to give, lend, or

" deliver, him any, and what, quantity? And how much did you deliver him?"

A. " I beg leave to decline answering that question, as I apprehend it is not applicable to the charge against the Prisoner.

Q. " Did you ever accept a Receipt from Lieutenant Governor DesBarres for any Provisions? And, if yea: for what quantity? And did you deliver the number of rations specified in the Receipt?"

A. " I desire to decline answering that, for the same reason I did the former.

Q. " Were not the Inhabitants lately settled on the Island of Cape Breton in great want of Provisions on the 1st of March last?"

A. " They certainly were, and I issued a Proclamation, wherein I offered to supply the Inhabitants that were in real distress, whenever Lieutenant Governor DesBarres sent me a List, as will appear by my Proclamation bearing date the first of March.

Q. " Did Lieutenant Governor DesBarres ever require you to deliver up to him, or his order, the residue of 40000 rations of provisions which remained in said store, and for which he had given you a Receipt?"

A. " I decline answering that question.

Q. " Did you not know, or understand, that there was before and on the said 1st of March, a Writ, Warrant, or some Legal Process, issued under the authority of the King's Government established on the said Island of Cape Breton to the Provost Marshal (or Sheriff) of the said Island, requiring him to attach thirty-five thousand Rations, or some other quantity of provisions in said Store?"

A. " I decline answering this question, as foreign to the charge.

Prisoner, " Mr. President and Gentlemen of the Court. I beg to submit it to your consideration, whether Colonel Yorke should not be obliged to answer those questions that he has now refused: They are very material to prove the illegality of his Orders to me.

The COURT (cleared to consider the Prisoner's claim) " Is of opinion that Colonel Yorke is bound to answer all questions which may be put to him, that in any way tend either to prove the charge, or exculpate the Prisoner.

Colonel Yorke. " Mr. President, I must beg leave to decline these questions, or any others the Prisoner may chuse to ask, that do not purely relate to the charge he stands accused of.

Question by the Prisoner. " Did I refuse to take charge of the Barrack Guard on the said 1st of March, or did I refuse to obey your Orders in any other instance than in resisting the Civil Magistrate in the execution of a Legal Process, in case such should be shewn me?"

Answer. " The Prisoner refused my Orders as Commanding Officer.

Q. " Were not your Orders to me on the 1st of March merely verbal, and were they not intended to induce me to kill, wound, or disable, any Civil Officer and his Assistants who should come with a Writ, Warrant, or other Legal Process, assisted by the posse committatus for taking any provisions out of the said Store, if such Officer and people could not have been prevented by any other means from executing such Writ or Legal Process?"

A. " In answer to that question, I beg leave to refer to my own and Capt. Stewart's evidence in the prosecution.

Q. " Did you not say that it was uncertain whether you, or the rest, or some of the rest, of the 33d. Regiment would be alive on the evening of the said 1st of March; meaning that there would probably be bloodshed that day? And that, in case of any attempt being made on the Provision Store by a Civil Officer with the posse committatus, you would turn out the 33d. Regiment to support the Barrack Guard and would give a good account of the people concerned in such attempt, or words to that effect?"

A. " Not having a recollection of all the conversation that passed that morning, I can't answer this question with precision, or in a way that could be serviceable to the Prisoner.

Q. " Did you when you gave the Orders above referred to, and do you now, conceive that your Orders to me were, or would be, a sufficient justification to me for resisting a Civil Magistrate in the execution of the King's Writ, Warrant, or other Legal Process, so far as to wound, kill or disable him, if he could by no other means be prevented from executing such Writ, Warrant, or other Process?"

A. " In giving my Orders that day I conceive myself only responsible to the Commander in Chief.

Q. " Did not David Mathews Esq. His Majesty's Attorney General within the Island of Cape Breton, on, or about, the 1st of March, inform you that you could not justify a forcible opposition to the Civil Magistrate in the execution of the King's Writ, Warrant, or other Legal Process?"

A. " I beg leave to decline answering that.

Q. " Did I not assign, as a reason for my declining to resist the Civil Magistrate in the execution of his Office, that I had the opinion of both

" (or one) of the Crown Lawyers on said Island, that such resistance was, and would be, unlawful in any Military Officer, or Soldier, and that your Orders would not justify me in such resistance?"

A. " I do not recollect any such conversation.

Question by the Prisoner to Capt. Stewart. " Did you know that Lieutenant Governor DesBarres made a requisition to Colonel Yorke, for any Provisions for a supply of the necessities of the Kings subjects settled in the Island of Cape Breton? If yea: at what time, and for what quantity? And did he engage to give, lend, or deliver, him any, and what quantity? and how much did he deliver?"

A. " I do not exactly recollect the period. The quantity was 40000 rations, to the best of memory: and the quantity delivered on that account was 5000 rations, as I have been told.

Q. " Do you know that Col. Yorke ever accepted a Receipt from Lieutenant Governor DesBarres for any Provisions? and if yea: for what quantity? and did he deliver the number of rations specified in the Receipt?"

A. " I know Col. Yorke did accept a Receipt for 40000 Rations, but, what quantity was delivered, I cannot tell.

Q. " Were not the Inhabitants lately settled on the Island of Cape Breton, in great want of provisions on the 1st of March last?"

A. " I have heard they were."

Wednesday, 28th June, 1786.

The Prisoner calls upon DAVID MATHEWS, Esq Attorney General for the Island of Cape Breton. Sworn.

Question. " Do you know that there was before, or on the 1st of March last, a Writ or Process of Law issued, or intended to be issued in said Province, directed to the Provost Marshal, or Sheriff, thereof, requiring him to attach a quantity of provisions in the Store where the King's provisions were kept within said Province? And, if Yea: Did ever you hear Colonel Yorke declare that he would oppose the execution of such Writ or Legal Process, and did you ever advise said Colonel Yorke that such resistance would be illegal and unjustifiable?"

Answer. I did not know that a Warrant was issued until, the 2d of March, it was reported that the Lieutenant Governor meant to take some steps in order to get possession of the provisions in the military Store, against which measure my constant opinion and advice was, that he should not by any means attempt taking possession of the Military Provisions, as it might bring on a dispute with the troops; but he should refer the matter to the King in Council [the people must have starved long, before any answer could possibly have been obtained] As for giving my opinion to Colonel Yorke; the Colonel never asked me for it: Whatever passed between us on that subject was mere matter of conversation.

Q. " Did you ever say to me, or in my hearing and presence, that if a Civil Magistrate, or Officer, authorized by Writ to take possession of any part of the provisions in the said Store, that it would be illegal in any Military Officer to resist such Civil Magistrate, or words and expressions to that effect?"

A. " I do recollect having some loose conversation with Major Moncrieffe upon the subject on the 2d of March; but I gave no fixed opinion at that time, nor at any period prior to it.

Q. " Did you ever hear one, or more, experienced Military Officer, or Officers, say in my presence or hearing, that no Military Officer, or Officers, could justify resistance to the Civil Magistrate in the execution of a Writ or Legal Process, though commanded to make such resistance by his superior Officer?"

A. " To the best of my opinion, I heard Major Moncrieffe make use of some expressions, to that purpose; but the conversation was consequent to to 1st of March, to the best of my recollection.

COURT to the Prisoner: " You will please to confine your defence to the transactions of the 1st of March, or those prior to that date, if relative to the crime.

PRISONER to the Court: " As I find the witnesses, on their being questioned by me, refuse to answer fully, I find it unnecessary to produce any farther evidence, but submit it to the Court; whether it will proceed to a sentence, where that is the case, and, if it should, I beg 'till Saturday next to close my defence.

COURT: " As you decline to bring any further Evidence; you will be indulged 'till Saturday next to close your Defence: As to the Evidence not answering your Questions, they have been duly sworn to answer all that may relate in any respect to the matter now before the Court."

Saturday, 1st. July 1786.

CONCLUSION of the PRISONER'S DEFENCE.

" Mr. President and Gentlemen of the Court Martial, I stand,

" before this Court, charged by my Prosecutors with Disobedience of the Orders of my Commanding Officer on the first of March last, a Charge, which, if proved, may affect my honour, reputation and rank as an Officer. However the Charge may be to which I am brought to answer, and, however it must necessarily be to my feelings to lie for one moment under the suspicion of so unsoldier like a Crime, I could have supported myself with firmness, conscious of my innocence, had my Prosecutors come forth with candour, stated the facts fairly and fully in their Charge, or disclosed them, when on oath, before the Court; But, my case, Gentlemen, is peculiarly unfortunate: No person, except my accusers, were present at the time when the Crime imputed to me is alleged to have been committed: They are willing and recollected Witnesses to every thing which can possibly criminate me; but, either refuse peremptorily to answer to, or cannot recollect, matters tending to my exculpation and defence. In this situation, Gentlemen, I have nothing to rely on but the justice and Candour of this Court, and a few circumstances which have involuntarily escaped from my Accusers. In my defence, I shall first give to the Court a true and exact statement of the facts, my prosecutors have converted into the high Crime of *Disobedience of Orders*, which I will endeavour to do with impartiality according to my best recollection and knowledge.

" Previous to the 1st of March last, there had subsisted a controversy between Colonel Yorke and Lieutenant Governor DesBarres Commander in Chief of the Province of Cape Breton respecting some Provisions, required by the latter for supply of the Loyalists settled in that Government: That Controversy was afterwards adjusted through my interposition, and Colonel Yorke agreed to supply the Lieutenant Governor with 40000 Rations: Somewhat more than 5000 of which were delivered to him, the rest remained in store under the care of the Commissary there, and Colonel Yorke had the Governor's Receipt for the whole 40000 Rations. Before, and on, the 1st of March, the Inhabitants of the said Province were in a state of the most pressing want for the necessaries of life: In which situation Governor DesBarres applied to Colonel Yorke for the residue of the 40000 Rations, which he refused to deliver to him. In consequence of which, it was well-known to Colonel Yorke, and to myself, that a Process of Law under the authority of His Majesty's Government established at Cape Breton, and in the King's Name, was intended to be issued, to take the Provisions thus agreed by Colonel Yorke to be delivered to Governor DesBarres out of the Store where they were deposited.

" I, being *Orderly officer* on the first of March; Colonel Yorke sent for me to his quarters: he said that he had reason to expect that the Provost Marshal, with the *passé committatus*, would come with a Writ to take the 35000 Rations out of the Store, and directed me to place my Guard, so as to hinder him from taking these provisions, and that, if the people with the Provost Marshal should overpower the Guard, he would be ready to support me with the whole of the 33d Regiment: That it was uncertain whether he or the rest of the 33d Regiment would be alive that night; but he believed he should give a good account of those who came with the Provost Marshal, and many other things, which indicated a design that I should resist any Officer who should come with a Writ to take these Provisions, so far as to *kill* them if they could not otherwise be prevented from executing such Writ.

" I then took the liberty of expostulating with Colonel Yorke, and told that, if he meant to direct me to oppose the Civil Magistrate in the execution of a Legal Process, if such should be shewn to me, I did not think myself justifiable in doing it—that I ever had been taught to respect the Civil Authority and could never think of resisting it. This is the exact State of Facts, according to my best recollection and belief. I will now see how far it is supported by Evidence, laid before the Court.

" In the Extract of Colonel Yorke's Letter to General Campbell, he says, that he sent for me on the 1st March to give me directions how I was to act. In his examination he says, that he sent for me to his quarters, in the presence of Captain Stewart, to give me directions how I should act in case of such attempt, as well as to prevent any accidents happening from the impetuosity of the Mob; and, on his proceeding to give me Orders relative to the security of the Store, to his utter astonishment I refused to receive them. If Colonel Yorke's evidence is true: I never disobeyed any Orders at all; for he expressly says that I refused to receive them. He swears, indeed, positively that I refused to obey his Orders; but that declaration is absolutely inconsistent with the other part of his testimony. If the fact is true, as sworn to by both my Prosecutors, I ought not to stand here accused of *Disobedience of Orders*; but for disrespectful behaviour to my Commanding Officer, in interrupting him in giving his Orders. To constitute the Crime of

Disobedience of Orders, they must be specifically given: It must appear what they were: That the person commanded was in a situation to obey them, and that he disobeyed them. Neither of these appear in this case. Indeed my Accusers, conscious that the Orders, or Intentions, of Colonel Yorke were unjustifiable and illegal, and that my declining to put them in execution was perfectly justifiable, have, in their evidence, purposely avoided telling what these Orders were. Indeed Colonel Yorke does not seem to recollect that he was sworn to tell the whole truth. In this case, he positively refuses to disclose to this Court what the Orders were which I refused to obey. How he can reconcile it to his conscience to suppress the truth when on oath, and respecting matters which this Court has determined were material to my defence, I am at a loss to know. I am equally at a loss to discover, how he can reconcile his conduct with the principles of Natural Justice, in bringing a Brother Officer before this Tribunal to be tried on a partial disclosure of facts; But I flatter myself, that this Conduct of my Prosecutor will not answer his intended purpose, which obviously appears to be my ruin. It is (I am informed) an invariable Principle in all Laws, that, if it is suggested that a party to a suit has evidence in his possession, which he will not adduce and does not deny that he has such evidence, the Court will take the fact to be true which such evidence would prove if adduced. I will apply this Rule to the present Case: Colonel Yorke is asked several questions by me: He utterly refused to answer them, from the animosity (to give it the mildest term) he shews towards me: Not one Member of this Court can doubt that, if he could answer them so as to criminate me, he would most readily answer them; He does not deny that he can depose respecting them: This Court, I therefore conceive, will consider that refusal as favourable to me, as if they had been answered in the manner I could wish.

My seventh Question to him is: " Did I refuse to take the charge of the Barrack Guard on the said first of March, or did I refuse to obey your orders in any other instance than in resisting the Civil Magistrate in the execution of a Legal Process, if such should be shewn to me? To which he answered: You refused to obey my Orders. Now, can any one possibly doubt but he would have said that I refused the Command of the Barrack Guard, and that I refused other Orders than those mentioned in the question, if he could consistently with truth? no man in his senses can possibly suppose it. I shall therefore put my defence on this point: *that*, if saying to my Commanding Officer before I was on Duty, that if he meant to order me *when Officer of the Guard* to resist the Civil Magistrate in the execution of a Legal Process, and I should not obey him, constitutes the crime of which I stand accused, I am guilty; if otherwise, I am not guilty. I will for a moment admit that I had been sent on duty by Colonel Yorke: that I had received orders from him, while on duty, to resist a Civil Officer in the execution of a Legal Process; and, if I am not guilty in that case, I cannot surely be deemed so in the present. The resistance of a Civil Magistrate in the legal execution of a Process is beyond a doubt generally unlawful in any person Civil or Military, and the only question there is: whether a Subaltern Officer is obliged to obey the commands of his Superior Officer to do an act in itself unlawful? I conceive he is not, and will give my reasons. The laws and constitution of Great Britain know of no such state, as a *Soldier*, in contradiction to that of a Citizen: No man puts off the latter, when he enters the Camp; but it is because he is a Citizen and wishes to continue such that he, for a while, makes himself a soldier: Though, by entering into that Character, he acquires new obligations, he discharges himself from none of the Duties he owed before to the Laws and Constitution of his Country. No man can be ignorant that a Citizen cannot justifiably resist a Civil Officer, armed with the King's Writ: the Soldier is a Citizen; he therefore cannot do it. If a Military Officer claims that right; he must shew the law on which he grounds it. If he has it: he derives it from the King and His Laws: He can derive it from neither of these sources. It would be infinitely absurd to suppose that the King has armed his Military subjects to resist his other subjects acting under His Civil authority. If this is not true; what is the consequence? the Civil Officer acts most undoubtedly legally by obeying and forcing the King's Writs; and the Military Officer acts legally in opposing him. As well might any two contradictions in nature be reconciled, as this. It is impossible that the laws of our Country should oblige one part of the Community to oppose the other. But it may be said, it is true that the Commanding Officer of an Army or Detachment may not be justifiable in giving Orders to resist the Civil Magistrate in the execution of a Legal Process; yet the Inferior is bound to obey, and can justify obedience to such Orders. I could not have believed it possible that any Man of common understanding could have given into so manifest an absurdity, had I not heard it lately from my Prosecutor. From whence does

" the Superior Officer derive his right to command? and what makes Disobedience in an Inferior a Crime? It is only the Articles of War. They give the right to the Superior to administer *lawful* Commands, and make it criminal in the Inferior to disobey *lawful* Orders. No other can the former give: no other is the latter bound to obey. It is a well known Principle in our Laws that the Orders of MAJESTY itself are no justification for the Subject to do an illegal Act. The person doing it by virtue of such Order is as much punishable for it, as if it had been done upon his own bare suggestion: And is it possible than any Military Man can claim a Right and Power superior to his Sovereign, from whom all his authority is derived? I am informed by those well versed in the Laws of the Land, and know it from my own perusal of some of the best Authors who have written on our Law, that when one person commands another to do any unlawful Act, and it is done accordingly; if it be a Trespass; both are *Principals* in the Trespass; if it be Murder, or other Felony, the person commanding, if he be absent, at the time of committing the Murder or Felony, is an *Accessary*; and the person obeying is *Principal* in such Murder or Felony, by Order and command of any Superior notwithstanding.

" Were not this true, and should the doctrine of an Inferior's being bound to execute unlawful commands from a superior obtain, the Commander in Chief of the King's Army in Great Britain might turn the whole Military Force of the nation against the Person of the Sovereign, and every subordinate Officer and Soldier would, in seeking the Destruction of his King and Country, be acting in conformity to his Duty. An absurdity too huge and monstrous.

" The Criterion then is this:—An Inferior Officer is bound to do any thing which he shall be commanded to do by his Superior, if such Superior had himself a right to do the same act: and no other sensible reason can be formed. Now: If Colonel Yorke had a right to resist a Legal Process when shewn to him, he doubtless had a right to order me to do the same: But not otherwise. If an Inferior cannot refuse the illegal Orders of his Superior; a Commander can, at any time, either break or hang any person under his command. He can give an Order to him to obstruct the Courts of Justice; to kill all Persons who shall resist him in executing that purpose, or can direct him to commit any other Capital Crime; if he disobeys, he will be *capitalised*; if he obeys he will be *hanged*.

" From these Considerations; from having the Opinions of both His Majesty's Chief Justice and Attorney General within the Island of Cape Breton, that Resistance to a Civil Officer, in the execution of a Legal Process, could not be justified under the Command of a Superior Officer; from having been before concerned in Great Britain in operating with the Military Force against the King's subjects who had riotously assembled for illegal purposes without the Orders of a Civil Magistrate; and from my having been on that occasion strictly enjoined by Persons of the first Rank in the Kingdom, both Civil and Military, never to presume to use the military force against the King's subjects, even when doing unlawful acts, without the direction of the Civil Magistrate, and that, if I did and death should ensue, my life would become forfeited by the Laws of my Country; and having also the opinion of several old and experienced Officers at the place where, and previous to the time when, I was considered as guilty of the Crime laid to my charge, I conceived myself bound to expostulate with Colonel Yorke as I did on this occasion, and to inform him that, if he meant to order me to resist the Civil Magistrate in the execution of a Legal Process, I could not think myself justifiable in obeying him.

" I am not only clear that I should have been unjustifiable in resisting a Magistrate armed in this case with a Legal Process; but I think I should not have been justifiable in opposing even a private Person coming with the bare authority of Governor DesBarres to take those Provisions.

" The Store in question is the King's: All the provisions therein were His; consigned, part to Colonel Yorke, part to Governor DesBarres. The former had only the bare custody of them. That custody he had parted with (respecting the 40000 Rations) by accepting Governor DesBarres' Receipt for them, and had thereby lost any right in, and controul over, them. The residue of that quantity remaining in the Store were solely under the care of Governor DesBarres and subject to his orders: And, as well might Colonel Yorke have ordered me to guard any Man's house, or store, on that Island to prevent the Prorietor from entering it, or taking his own goods from it, and to kill him, if he attempted it, as to give me Orders to prevent Governor DesBarres, or any one having the authority from him, from taking the residue of the provisions for which he had given a Receipt.

" From these considerations, I have no doubt but this Court will consider me as innocent of the Crime laid to my charge."

SENTENCE.

Tuesday, July 4th, 1786. " The Court having duly considered the Evidence against the Prisoner Lieutenant William Norford as well as what he had to offer in his Defence, is of opinion that he is guilty of the Crime laid to his Charge, in breach of the latter part of the fifth Article of the second Section of the Articles of War, and does therefore sentence him to be *capitalised*.

" CHARLES WOOD, President."

" Charles Lyons, Deputy Judge Advocate."

Letter from HIS MAJESTY'S JUDGE ADVOCATE GENERAL to Lieutenant Norford, dated Horse Guards, 1st September, 1786, (App. 361.) (viz.)

" I HAVE had the honor of laying before the King the proceedings of a General Court Martial, held at Halifax in Nova Scotia on the 23d of June last and several subsequent days, upon your Trial for Disobedience of Orders upon the 1st of March last, whereof you were found guilty, and in virtue of the 5th Article of the second Section of the Rules and Articles of War was sentenced to be *CASHIERED*.

" His Majesty was pleased to remark that it appears, from the Evidence, not that you failed to execute any Order actually entrusted to you, but that you remonstrated to your Commanding Officer upon the extent and probable consequences of the Order proposed to be given, objecting to it upon the ground of its enjoining a forcible, and, as you conceived, unlawful resistance to the authority of the Civil Government, and intimating that, if it was expected you should oppose the Civil Magistrate in taking possession of the Store, you could not comply therewith, and that, in consequence of that intimation, the duty of the day was transferred to another Officer, And, as it has not been shewn that the remonstrance made by you proceeded from, or was accompanied with, any marks of intentional disrespect or contempt of the Orders of your Commanding Officer, His Majesty is induced to hope that you was actuated solely by a full and sincere persuasion, that, the resistance enjoined would have amounted to a direct violation of the Laws, in which not even an Order from your Commanding Officer would have justified you: Which case alone can at any time excuse an Inferior Officer from yielding prompt obedience to those set over him; And His Majesty has therefore not thought fit to confirm the Sentence of the Court Martial.

" His Majesty nevertheless highly disapproves some strictures made in the course of your defence: more especially of the pointed terms in which they are conveyed, tending to impeach the propriety of the conduct of Colonel Yorke, the Lieutenant Colonel of the Regiment, in respect to his having brought you to trial, and attributing the same to undue motives; whereas that Officer appears in issuing the Order in question to have only adopted the sentiments and acted in conformity to the express directions of his Superior Officer, and, in instituting the Prosecution to have had no other objects in view than to uphold discipline and to enforce due Subordination; and His Majesty expects that you do make a respectful apology to Colonel Yorke for any improper expressions, or unbecoming warmth into which the distressing situation in which you then stood, a Prisoner upon your trial and charged with a Crime of a most serious nature may have betrayed you. You will of course await a Liberation from your Arrest from your Commanding Officer." I am, &c.

" Lieutenant W. Norford,

" CHARLES GOULD."

" of the 33d. Regiment of Foot;

Letter, &c. in consequence of PERVERSIONS and MISREPRESENTATIONS (published at Halifax) on the Judicial Proceedings of the Supreme Court of Cape Breton, addressed to W. Howe (Printer) dated 26th May 1786, together with the CHARGE TO THE GRAND JURY on the 1st of February preceding.

" The Chief Justice of this Island, having seen in your Paper of the 14th of April last, a Publication called *Substance of his Speech delivered on the 11th of February*, in which his Charge to the Grand Jury on the 1st (and not on the 11th of February) is evidently for mischievous purposes partially and falsely represented; directs me to enclose to you a perfect Copy of that Charge for publication in your Journal, to obviate the mischief intended by the former, and likewise to enclose to you a Copy of his Speech to the Grand Jury of this Island on the 5th Instant, the Answer thereto and his Reply, which he requests you will also publish in your Paper, &c.

" THOMAS ASHFIELD,"

" Clerk of the Crown for Cape Breton."

" Gentlemen of the Grand Jury,

" YOU are now called together and sworn as the Grand Jury, and as present the only Representative of the body of his Majesty's subjects

" in this Government. By the oath you have taken, you must perceive
 " the great and important duties which are incumbent upon you to per-
 " form. You must consider yourselves not only the Grand Inquisitors and
 " Accusers on the Part and behalf of the Public Community; but
 " the jealous Guardians of the Lives, Liberties, Rights and Properties
 " of your Fellow Subjects. Those invaluable blessings, so eminently the
 " Birth Right of every British Subject, cannot be preserved if the Laws
 " of the Land are not duly supported and carried into the strictest execu-
 " tion: If those laws are suffered with impunity to be violated, con-
 " temned, insulted and opposed, the excellent and boasted British Consti-
 " tution will be subverted and destroyed, and those Securities and Rights,
 " which we justly claim, will be annihilated, or rendered so precarious as
 " to level us with the abject Slaves of the most despotic Govern-
 " ment.

" The Laws can never have their intended effect, if the Administrators
 " of Justice are not duly supported in the execution of the very high and
 " sacred trusts committed respectively to them by the Crown, the great
 " fountain of Justice: and His Majesty, who is the supreme magistrate
 " of the state and sovereign executor of the laws, to whom the highest
 " respect, deference and submission, is due from, and ought to be paid
 " to, by all ranks, classes and descriptions, of subjects; whether civil,
 " ecclesiastic or military, who are all equally bound by, and amenable
 " and subject to, the public Laws of the Land, and the mandates, and
 " process issuing from the Civil Magistrate, and every forcible opposition
 " thereto is a crime of a very alarming, high, and heinous nature, and
 " calls aloud for speedy detection and correction. As the different De-
 " partments of the magistracy possess by Delegation from the Crown re-
 " spective and proper parts of its executory Powers, a due and propor-
 " tionate degree of respect, submission and obedience, is due and
 " ought to be paid to them by all Ranks and Orders of People. Calu-
 " rniating or arraigning the Official Conduct, or Proceedings, of the
 " judicial or ministerial Officers of Justice is very criminal and will sub-
 " ject the Offenders, on conviction, to such Punishment as is prescribed
 " by Law. This offence may be committed by writing or speaking; as,
 " to call the judgment of a Court of Justice, or its process, the conduct
 " and proceedings of a Magistrate as such, or the Execution of mandates,
 " warrants or process, issuing from those authorities by the ministerial
 " Officer, arbitrary, illegal, tyrannical or oppressive, or to brand them
 " with the opprobrious term of Star Chamber Proceedings, are great con-
 " tempts and severely punishable; although a Court of Justice, or Magis-
 " trate, may have been mistaken in the judgment, or the Award of Pro-
 " cess, or the Executive Officer in executing the same; they are not to be
 " vilified, or forcibly opposed, by any man or number of men, but a
 " peaceable Submission is first to be paid to the Public Officer, and the
 " Party injured left to pursue in a regular, decent, orderly and legal
 " course, that mode of Reversal and Redress, which the wisdom of our
 " Laws has provided for every such Case.

" Some strange, absurd and preposterous, opinions have been conceived
 " adopted and acted upon, that in certain Cases, and, as if People of cer-
 " tain Descriptions and Classes were less liable to, or exempted from, the
 " Authority of the Civil Law of the Land and the Controul and Juris-
 " diction of the Civil Government and Magistracy than others are: Such
 " opinions are false, groundless, and threaten most dangerous Conse-
 " quences to the Peace, Security and Happiness, of the Public Commu-
 " nity, and tend to subvert and destroy the very existence of Civil Govern-
 " ment and our most admirable Constitution and require the most vigilant
 " attention and reprehension of the Civil Authority.

" It is very true, Gentlemen, that some descriptions of British Subjects
 " are subject to particular Laws peculiarly adapted to themselves, which
 " do not affect, or reach, other Members of the Community: such are
 " private Acts of Parliament, Bye Laws of particular Corporations and
 " Committees, the Laws for regulating and governing the Military Forces
 " of the Nation, and the like; But it ought to be known that such local
 " or particular Laws do not divest the Persons immediately subject to
 " them in all other instances of the common Rights of subjects, or
 " exempt them from the Supreme Authority, Controul and Jurisdiction of
 " of the general Laws of the Land, and therefore although in the Military
 " Department a strict Obedience to the Orders and Commands of Superi-
 " ors is enjoined under very severe pains and punishments; yet such
 " Obedience can only be justified in cases wherein such Orders do not
 " militate with the Civil Law, or wherein the Civil Power does not inter-
 " fere; for every subject, whether Civil or Military, is bound to know
 " the Laws of the Land and to yield the fullest Obedience thereunto;
 " and the Civil Government has ample Power to controul and prohibit
 " all inferior Jurisdictions, whether of a Civil or Military kind, from
 " trying or punishing any Subject, although in Military Character, for
 " refusing Obedience to Orders and Commands, which in executing would
 " oblige him to violate, or condemn, the Civil Law in any instance, or op-

" pose the Civil Magistrate or Officer in the execution of his Office, whether
 " acting strictly legal or not; which Legality, no Military Man, Power,
 " or Body of Men, are competent to judge of, or determine, and, therefore
 " it is no justification of an Inferior, doing any Act which the law construes
 " criminal, to shew the Orders of his Superior; For, although the Person
 " who gives the Order may be a Criminal, he who executes it is not less
 " so; For, should he refuse such obedience and be brought in question
 " therefore under the general, or special, charge of Disobedience of Orders,
 " and make a regular Application to a proper Civil Court of Justice,
 " that Court ought to and would, exercise its supreme Power and Controul,
 " and remove the Parties and the Cause before itself, and, it being made to
 " appear to the Court that the inferior Power was proceeding illegally, or
 " exceeding its proper jurisdiction, it would issue a writ prohibiting all
 " further proceedings therein; and all Persons to whom such prohibition
 " should be directed proceeding thereafter further on such matter would
 " not only be subject to Punishment, as for an high Contempt; but be
 " liable to an Action at Law and payment of ample damages to the Party
 " injured.

" All false, factious, seditious and inflammatory discourses; declarations,
 " publications, writings, associations or speeches, calculated to disseminate
 " public jealousies, discontents, distrusts, discord and dissatisfaction, among
 " the People or between the Civil Government and the People, or to ren-
 " der the Government or its Officers, or its Administration, or the Judges
 " and Administrators of Justice, weak, odious and contemptible, are Offences
 " of so dangerous a nature, as ought by you, Gentlemen, to be prevented,
 " and the Perpetrators, when convicted, exemplarily punished. Indeed,
 " Gentlemen, in so young a Government as this, every intimation or
 " insinuation that may be made to impede the Progress of the Settlement,
 " to discourage Inhabitants from coming into the Country, to cause those
 " that are already here to leave the Island, to induce a belief that Justice
 " is not to be obtained from the Magistracy, or that the Government
 " is so weak, or unstable, that the Subjects ought not to depend upon it
 " for Protection and Support: are Crimes that ought not to be passed,
 " over without Notice and chastisement.

" The nature and number of Crimes and Misdemeanors which are
 " proper for your serious and most deliberate Attention and Presentment,
 " are many as, as Treason, Felonies and Misdemeanors of all kind, which
 " tend to Public Injury and mischief, and are breaches of the
 " Peace.

" Treasons are of two kinds, known in Law by the terms of High
 " Treason and Petit Treason. High Treason, is the highest civil crime
 " which any Man can possibly commit, at this day is comprised under
 " seven distinct branches, as expressed in the Act of Parliament of the
 " 25th of Edward the Third.

" *First*, Compassing, or imagining, the death of the King, or his
 " Eldest Son and Heir.

" *Secondly*, Violating the Queen Consort, the King's Eldest Daughter,
 " unmarried, or the Wife of the King's Eldest Son and Heir.

" *Thirdly*, Levying War against the King; and this may be done by
 " taking up Arms, not only to dethrone the King; but under pretence to
 " reform Religion, or the Laws, or to remove evil Counsellors, or other
 " Grievances, whether real or pretended. For the Law does not, neither
 " can it, permit any private Man, or set of Men, to interfere forcibly in
 " matters of such high importance. Upon this definition, assembling
 " any number of Men, taking up Arms, whether of their own accord or
 " by command of others, to resist or oppose the public Administration of
 " Justice, or the execution of the Law, will be such a levying war as to
 " amount to High Treason, as well in them who give the command,
 " advice or order, as in those who actually commit the Fact. But, it is
 " to be observed, the object of opposition, or pretended reformation, must
 " be of a public and general nature; for, otherwise, if only of a private
 " and particular nature in which the Government or Community are not
 " affected, although such opposition or resistance is very criminal and
 " severely punishable; yet the laws will construe it only a Riot of a very
 " high nature. But the line of distinction, between High Treason and a
 " Riot is, in many instances of this kind, difficult to be drawn with
 " precision; and in such Cases, where the difficulty may occur, it is
 " safer to prosecute the Offender for the lesser Offence.

" *Fourthly*, Adhering or giving aid and comfort to the King's En-
 " mies.

" *Fifthly*, Counterfeiting the King's Great, or Privy, Seal.

" *Sixthly*, Counterfeiting the King's Money, and bringing false
 " Money into the Realm counterfeit to the Money of England.

" *Seventhly*, Slaying the King's Chancellor, Treasurer, or King's
 " Justices of the one bench or the other, Justices in Eyre or Justices of
 " Assize, and all other Justices assigned to hear and determine, being in
 " their Places, doing their Offices.

" Besides the Treasons mentioned in that Statute, many others

“ have been since created by subsequent statutes, which Sir William Blackstone comprises under three general heads. *First*: Such as relate to Papists; *Secondly*; Such as relate to falsifying the Coin, or other Royal Signatures; and *Thirdly*: Such as are created for the Security of the Protestant Succession in His Majesty King George and the illustrious House of Hanover.

“ As it is not probable any Crimes of this heinous nature will come under your consideration, I shall not take up your time by a further illustration of the Facts, which, in construction of Law, constitute High Treason.

“ Petit Treason, in the estimation of Law, is but Murder, aggravated by the peculiar relation subsisting between the Party slain and the Slayer: Such as, a Wife killing her Husband; a Servant his Master, and the like, in which the law requires the same evidence to convict the Offender, that it requires to support a conviction for Murder, when no such relation subsisted between the Parties.

“ Under the general term of Felonies are comprehended a great number of distinct Offences, many of which, from the present circumstances of this Island, not being likely to be committed, I shall forbear to enumerate.

“ Among those which, from the depravity of human nature, and having Convicts, and Others of bad Characters and Morals, sent from other Parts and clandestinely landed in this Government may be feared, and ought to be guarded against, are, *first*: Criminal Homicides, under which are included Murder of *malice prepense*, to which the Law assigns the punishment of Death: Manslaughter, to which, in compassion to human nature, and in the first Instance, although a Felony, the law allows the *Benefit of Clergy*; but that Benefit can be allowed but once. There are other kinds of Homicides, which, in some instances: though not justifiable, are excusable, and some that are perfectly justifiable by Law.

“ *Secondly*: Rapes of Women, to which the Law assigns the punishment of death, upon conviction.

“ *Thirdly*: A Crime, which the learned Judge Blackstone justly terms the infamous crime against nature, which likewise subjects the offender to suffer capitally.

“ *Fourthly*: Arson, which is the malicious and wilful burning the House, or Out-Houses, of another Man: This is an Offence of very great malignity, and much more pernicious than simple Theft and punishable with death: The wilful and malicious burning of a Stack of Corn, is likewise Arson, even the wilful burning a Man's own House, in a Town; though no other is burned thereby, is a high Misdemeanor and punishable by fine, imprisonment, pillory, and perpetual sureties for good behaviour.

“ *Fifthly*: Burglary, which is nocturnal house-breaking with an intent to commit a Felony, whether the intention be effected or not: This Crime is also punished with death.

“ *Sixthly*: Robbery and Larceny, the forcible and violent stealing from a Person and putting him in fear, which is capitally punished, be the

“ the value taken ever so small. The other kinds of Theft are divided into Grand, and Petit, Larceny, according to the value stolen and circumstances attending the fact, and are differently punished according to the degree of the offence. Under the foregoing general heads of criminality are included a variety of degrees of guilt, of which it is not immediately necessary for me to enter into a more particular detail.

“ Under the title of Misdemeanors are included a great variety of Offences, not only against individuals; but against the public Community; and to which the law has assigned different modes and degrees of punishment, adapted to the different nature of cases.

“ All Contempts of the King's Government, Laws, Governors, Legislators, Courts of Justice, Judges and Ministers of the Law, are High Misdemeanors and severely punishable.

“ Perjuries and Subordination of perjuries, are Crimes highly offensive to God and injurious to Man, and justly merit the punishment assigned by law to them.

“ Forgeries are publicly, and individually, of a very dangerous nature, and are liable to presentment and punishment.

“ Threatening to kill, wound, maim or beat, another, or laying in wait, or procuring others to commit these Crimes, are in the eye of the Law so very criminal as to subject the perpetrators to just and exemplary punishment.

“ Riots, Routs, Tumults, unlawful Assemblies and Rescues, are Offences highly reprobated and prohibited by Law, and, if suffered to pass with impunity, may in some cases terminate in the greatest of Crimes.

“ High Treason, all Assaults, Batteries, Public Slanders, disolute and disorderly behaviour and breaches of the peace, are violations of the Law publicly mischievous, and liable to your presentment.

“ All Misprisions, Misbehaviour or Negligence in Public Officers of Government, by which the Government, or the Community, are injured are matters properly within the line of your duty to present, as also all other matters, that may come within your knowledge, which are contrary to good order and public peace.

“ As you, Gentlemen, represent the body of the People of this Island, are lawfully embodied, you will have it in your power, and I trust in your inclination, either, by a respectful address to His Excellency the Governor, or to His Excellency and His Majesty's Council, or by presentment to this Court, to represent every matter and thing which you may perceive injurious or detrimental to Government, or to the public good and well being of the Inhabitants of this Island; and to point out such additions to, or amendments in, the Ordinances of this Government, as may appear conducive to those desirable ends.

“ Any such Bills of Indictment, or Examination, as may come before the Court proper for your consideration, shall be laid before you by the proper Officers, and in any Cases of difficulty, the Court will upon your application, give you every possible assistance and information.

OFFICERS of the CIVIL and MILITARY ESTABLISHMENT.

THE Situation of the Officers of the Military Staff of Cape Breton who were Members of the Colonial Council, had, in consequence of the Orders issued by General Campbell, become extremely delicate and critical: And, it appearing that they could no longer give that free and independent Counsel and Advice to His Majesty's Governor in Support of His Majesty's Civil Authority, which their Zeal and Abilities might prompt and enable them to do, without imminent risque of losing by Martial Law their only subsistence and being exposed to the Pains and Penalties, with which they had been threatened, DesBarres thought it incumbent to declare in Council, that, as the then existing circumstances had rendered the Duties in their respective Civil and Military Capacities incompatible, each of them should be at liberty to elect which of the said Offices he would continue to act in, relinquishing the other, in order that His Majesty's Service might not be obstructed and His Civil Government be duly supported and obeyed. Accordingly Major Moncrieffe and Mr. Lovel (two of the Officers alluded to) being present, resigned their Seats at the Coun-

(73) MINUTES of the COLONIAL COUNCIL on the 10th of December, 1785, also Appendix, C. 49 & 98.

(74) Mr. HURD, on his Conduct and Suspension:

Vide Orders and Warrants of Survey, Returns, Depositions, Correspondence, &c. (App. B. 156. C. 62 to 71, 176, to 210) Also the following Royal Instructions, and Resolutions and Advice of His Majesty's Colonial Council, viz.

"GEORGE R.

"WHEREAS we have been graciously pleased to give Instructions to Our trusty and well beloved Joseph Frederick Wallat DesBarres, Esquire: Our Captain General and Governor in Chief of Our Island of Cape Breton, for the regulation of his Conduct in granting Lands to Our Loyal Refugees, who have taken refuge in that Our Island or others that may become Settlers therein: and, Among other things, to signify Our Will and Pleasure, that no Grant whatever be made of Land within Our said Island until Our Surveyor General of the Woods, or his Deputy lawfully appointed, shall have viewed and marked out such Districts within Our said Island, as Reservations to Us our Heirs and Successors, as shall be found to contain any considerable Growth of Masting and other Timber fit for the use of Our Royal Navy, and, that Our Surveyor General of Lands in Our said Island shall not certify any Plats of Land ordered to be surveyed for any Person, or Persons, whomever in order that Grants may be made out for the same, until it shall appear unto him by a Certificate under the hand of Our Surveyor General of the Woods, or his Deputy, that the Lands to be so granted, are not part of, nor included within, any district marked out as a Reservation for Us, Our Heirs and Successors as aforesaid for the purposes beforementioned: Our Will and Pleasure is, that you do in all things conform yourselves to the said Instructions.

"The Deputies you are to employ to assist you in the execution of the said Office, are to be able Surveyors, who are to receive their directions from you; and also, previous to their entering on the Duties of their Office, shall take an Oath and give good and sufficient Security for the due and faithful execution thereof, to be taken by the Governor.

"Every person to be employed by you, or your Deputies, as a Chainbearer to assist in the Survey of the said Lands, shall, before he enters into the execution of the Office in which he may be employed, take an Oath before the Governor, or Deputy Governor, or before you, or one of your Deputies, for the due performance thereof, and that he will make and return exact Surveys and Plats and Admeasurements of all the land laid out, or measured.

"When Surveys are to be made out, and Lands to be located at the expence of the Crown, you shall provide yourselves with persons to be employed as Chainbearers, or other Assistants, in the first place out of Our Troops doing duty in the Island of Cape Breton, provided they can be spared for that purpose; you are therefore, whenever you have occasion for such Assistants, to apply to the Commanding Officer of Our Troops, requesting him to appoint so many men as shall be wanted by

cil Board and expressed a satisfaction in the opportunity given to them of preserving their Peace: Subsequently the rest of said Officers gave in also their resignations (73).

Some of these however and of the Officers of the Civil Establishment, either from weakness or illaudable dispositions or Views, entered into opposition to the Measures of Government. They took advantage of the difficulties the Infant Colony was subjected to, through the failure of the promised Support, as well as the Jealousy and Counteraction in Nova Scotia. They not only obstructed the accession of Settlers, but also excited internal disturbances, and evaded, neglected and disobeyed, their duty; For which the Council judged it to be indispensable, in order to carry on His Majesty's service in the Colony, to suspend part of them from acting in their respective Offices, until His Majesty's Pleasure should be known.

Accordingly, by unanimous Resolutions and Advice of His Majesty's Colonial Council; Mr. Hurd, Surveyor General of Lands: Mr. Uncle, Collector of His Majesty's Customs; and Mr. Cuyler, Clerk of the Council, were suspended: and reprobation was pronounced on the conduct of Mr. Mathews, Attorney General (74).

"you, and you are hereby authorised to allow to each man the sum of Eight-pence a-day in addition to his Military Pay for such time as he shall be so employed; But, in case Our Service will not permit the troops to be employed, you are, then, to provide yourself with such other Assistants as you can procure, at the lowest wages possible, consistent with the due execution of the service.

"The Expences to be incurred by you, in surveying and locating such lands as are to be surveyed and located at the expence of the Crown, are to be defrayed by the Governor, after the account made out by you shall have been approved by the Governor and Council, according to the Instructions given by Us in that respect.

"You are to take care that the Boundary Lines of all Plats of Grounds to be surveyed by you shall be so joined as to be in time, when recorded, a perfect and exact Survey of the Country: And, when the Survey of any District shall be completed, exact and accurate Maps and Plans, certified by you, are to be delivered to the Governor, or Commander in Chief for the time being, in order to their being transmitted home.

"You are to report to the Governor any Observations that may occur to you and which may assist in ascertaining the Divisions of Parishes, the proper Spots for laying out Towns, or to be reserved for Forts and Fortifications: Also for erecting Churches and laying out Glebes: Likewise for the directions of Highways, and preservation of Wood Lands which will be necessary to preserve for the public benefit.

"In order to ascertain the true quantity of plantable, and rocky or barren Land, contained in each Grant hereafter to be made in the said Island, you are to take effectual and especial care that, in all Surveys, particular notice be taken, according to the best of your judgment and understanding, how much of the Land so surveyed is plantable, and how much of it is barren, rocky or otherwise unfit for Cultivation, and to insert in the Survey and Plat, by you so returned as aforesaid, the true quantity of each kind of Land.

"The Lands to be Surveyed, by Virtue of Warrants from the Governor, are to be run in such manner as to allow to each Tract an equal and proportional Share of local Advantages, as nearly as can be, in respect to Vicinity and Access to the Sea Shore, to Rivers or Highways, when the Allotments shall be near the Sea Shore or Rivers: And, in the Interior Parts, the Tract surveyed shall, as nearly as may be, run in a Square: And there shall be a sufficient space left, in the most convenient Places upon the Sea Shore or Inlets therefrom or upon Rivers, for those Settlers in the Interior Parts of the said Island to ship the Produce of their respective Plantations; from whence Paths and Carriages to the said Shores, Rivers or Inlets, can be conveniently and advantageously made. Given at Our Court at St. James's, this 10th Day of April 1785, in the Twenty-fifth Year of Our Reign.

"BY His Majesty's Command."

"Instructions to be observed by Thomas Hurd, Esq. Surveyor General for admeasuring, surveying, and setting out Lands in Cape Breton."

"W. PITT,
"F. BULLER,
"GRAHAM."

" AT A COUNCIL holden at Sydney the 2d. Day of March 1786, PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire, George Rodgers and William Brown.

" HIS Excellency the Governor represented that great delays and difficulties in expediting of the Public Business of this Government do, and must, necessarily occur from the distance and difficulty of access to the Places where the Public Business is at present transacted, and required the opinion and advice of the Board thereupon.

" It was unanimously resolved that His Excellency be humbly advised that the Public Secretary of the Island, the Register of Grants, Deeds and Conveyances, and the Surveyor General of Lands, do respectively keep Public Offices in the Town of Sydney for the dispatch of Public Business, to them respectively appertaining: And that the said Offices be kept open, and due attendance given therein from the Hours of Nine in the Forenoon to Three in the Afternoon, on every Day (Sundays and Holy-Days excepted), and that a Copy of this Resolution, with a List of such Holy-Days as His Excellency shall appoint, and a Table of Fees payable to said Offices, be publicly posted up in every respective Office.

" His Excellency farther represented to the Board the necessity and expediency of establishing general Table of Fees to be taken by the Officers of Government in this Island, and required the Advice and Opinion of His Majesty's Council thereupon.

" It was unanimously resolved and ordered that the several Officers entitled to demand, and receive, Fees, do forthwith lay before the Board an Estimate of Fees to be by them respectively demanded and taken for the farther consideration of this Board, and that a Copy of this resolution be transmitted to the respective Officers, and Offices.

" AT A COUNCIL holden at Sydney the 22d. Day of March 1786. PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire, George Rodgers and William Brown.

" His Excellency was pleased to lay before the Board the following engrossed Patents, and required the Opinion and Advice of the Board whether they were properly drawn, in order to pass the Great Seal, viz.

- One to William Blackburne, for One Lot of Ground in the Town of Sydney No. 10, in Block 4: (App. C. 54).
- One to Henry Widmore Perry for Two Lots, &c: No. 1 and 2, in Block C. (App. C. 55)
- One to William Plant for one Lot, &c: No. 3, in Block C. (App. C. 56).
- One to John Storey for One Lot, &c: No. 7, in Block A. (App. C. 57).
- One to George Rodgers for Two Lots, &c: No. 5, and 6, in Block E. (App. C. 58).
- One to John Smith, for Two Lots, &c: No. 8, in Block A, and No. 24, in Block F. (App. C. 58).
- One to William Brown for One Lot, &c: No. 9, in Block A. (App. C. 59).
- One to David Taitt for Two Lots, &c: No. 29 and 30, in Block A. (App. 61).

" On which the Council humbly requested that His Excellency would be pleased to order the Secretary of the Island to lay before the Board the Original Warrants of Survey (App. C. 62, and 63,) with the Returns thereon (App. C. 65 to 79) together with the Attorney General's Drafts of the Patents under his Fiat (App. C. 72 and 73); and that the Secretary, the Attorney General, and the Surveyor General of Lands, do it give their personal attendance on His Majesty's Council, when the said Papers shall be laid before it: and that the Surveyor General of the Woods, or his Deputy, be requested to attend at the same time.

" AT A COUNCIL holden at Sydney the 23d March 1786, PRESENT His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire, George Rodgers, and William Brown.

" Agreeably to the Order, the Secretary, the Attorney General, and the Surveyor General, attended and laid before the Board the Warrants of Survey, and Sundry Papers (called Reports) from the Surveyor General of Lands, together with Drafts of Grants and Fiats on some of them, and declared such matters as they had to say in explanation thereof, which the Board will take into farther consideration.

" AT A COUNCIL holden at Sydney the 25th March 1786, PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire and William Brown.

" The Council being assembled entered into the farther consideration of the Warrants of Survey, Returns, Drafts of Grants and Engrossments thereof (laid before the Board the 23d Instant by the Secretary the Attorney General and the Surveyor General) and also of the Plans of the Town of Sydney, returned to His Excellency the Governor by the Surveyor General upon an Order to him of the 29th Day of December 1785.

" It was unanimously resolved and ordered that Thomas Hurd, Esquire, Surveyor General of Lands for this Island, do immediately attend this Board with the Plan (App. B. 156) of the Town of Sydney, formed before the arrival of said Surveyor General in this Government and delivered to him by the Honorable George Rodgers by the Governor's Orders.

" Mr. Hurd agreeably to this Order of the Board, appeared with the Plan above mentioned. In the Plan of the Town of Sydney, produced by Mr. Hurd which had been given to him by the Governor's Orders, it appears that the following Blocks or Lots in the said Town are lettered and numbered as follows. viz:

- Letter A. North Charlotte Street, numbered from 1 to 38 inclusive, except 11 and 12, which appear to be kept open for a Street.
- Letter C. on the same Street, Two Lots No. 1 and 2, numbered therein.
- Letter M. on the same Street, with no Lots marked or numbered.
- Letter N. on Great George's Street, with no Lots marked or numbered.
- Letter D. on South Charlotte Street, with no Lots marked or numbered.
- Letter E. on the same Street, with Lots marked and numbered, from 1 to 28 inclusive.
- Letter F. on the same Street, with 38 Lots marked and numbered, from 1 to 38 inclusive.
- Letter G. on the same Street, with 14 Lots, marked and numbered from 1 to 7 inclusive.
- Letter H. on the same Street, with 3 Lots, marked and numbered, from 1 to 3 inclusive.
- Letter I. with Lots marked and numbered, from 1 to 28 inclusive.
- Letter K. between South Charlotte Street and Bentinck Street, with Lots marked and numbered, from 1 to 21 inclusive, and 4 Lots without numbers.
- Letter L. between Great George Street and Bentinck Street, with Lots marked and numbered from 1 to 28 inclusive.
- And two irregular Tracts of Ground, without numbers.

" AT A COUNCIL holden at Sydney on the 4th Day of April 1786. PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire, George Rodgers and William Brown.

" The Council being assembled: Upon solemn, mature and deliberate, consideration of the Conduct and proceedings of Thomas Hurd, Esq. Surveyor General of Lands in this Island, and of the Warrants of Survey and Returns thereof: Drafts of Grants with the Attorney General's Fiats upon some of them: Engrossed Patents for granting Lands (made by the Secretary and laid before the Board on the 25th Day of March last by the Secretary, the Attorney General, and the Surveyor General of Lands by Order of this Board): And also the Order of His Excellency the Governor of the 29th Day of December last to the said Thomas Hurd, to prepare and furnish His Excellency with true and exact Copies of the Plan of the Town of Sydney, as formed and laid out by His Excellency's Orders previous to the Arrival of the said Thomas Hurd in this Government, and which had been by the Lieutenant Governor's Orders delivered to the said Thomas Hurd and by him produced to this Board on the 25th day of March last, upon the Orders of the Council so to do, and upon comparing the said Plan with those furnished to His Excellency by said Thomas Hurd and, by him certified and attested to be copies of the said Original Plan:

" It was moved by the Honorable Mr. Rodgers, that this Board do come to some Resolution upon the several Matters and Things aforesaid, and thereupon unanimously resolved, that the said Thomas Hurd has not duly executed his Office, or conformed himself to the Directions of His Majesty's Instructions and Orders in proceeding on the Warrants of Survey to him directed, for making a Return thereupon of Fifty-three Town Lots in the Town of Sydney aforesaid to certain Persons mentioned in a Schedule or List, previously delivered to him by the Lieutenant Governor's Orders, and upon another Warrant of Survey for Two Town Lots to be surveyed and laid out to David Taitt, Esq. bearing date the 29th Day of December last.

" That the said Thomas Hurd did not, as he ought to have done, previous to making any Returns or Reports upon said Warrants of Sur-

“vey, make a Report of said Lands to the Office of the Surveyor General
“of His Majesty's Woods and obtain, from thence, the Certificate pre-
“scribed and directed by His Majesty's Orders and Instructions to the said
“Thomas Hurd (App. A. 175) and by Orders to His Excellency the Lieu-
“tenant Governor (App. A. 1 to 6), a Copy of which latter the said
“Thomas Hurd had been duly furnished with.

“That the said Thomas Hurd has unnecessarily delayed, to make
“Returns on the Warrants of Survey to him directed, under frivolous
“and ungrounded pretences.

“That the Delays and Evasions, made by the said Thomas Hurd,
“were calculated and evidently intended to obstruct the passing of Grants
“to those Persons to whom Lands had been assigned by Order of Go-
“vernment previous to the Arrival of said Thomas Hurd in this Govern-
“ment, and intended to occasion discontents and murmuring among the
“People, and, as far as in him lay, obstruct the progress of this Settle-
“ment.

“That the said Thomas Hurd, on the Plans made by him and an-
“nexed to his Returns and to be annexed to the Grants, has certified the
“Lots as only *said to be laid out*; thereby to invalidate the Grants, and
“induce a belief that no such Lots were really and actually then, and
“before, laid out and marked, though many of them were actually, in the
“possession of, and under improvement by, the Persons to whom they had
“been assigned; which he actually knew, or ought to have known, to
“be the truth.

“That the Three Plans of the Town of Sydney, furnished by the
“said Thomas Hurd to his Excellency the Lieutenant Governor upon
“His Excellency's Commands and Orders of the 29th of December last
“and certified by the said Thomas Hurd to be Copies of the Plan of the
“Town of Sydney delivered to him by the Lieutenant Governor's Direc-
“tions, are false, and not true copies of said Plan; For that, in the
“Plan delivered to him, there is marked one hundred and Eighty Town
“Lots by Letters and Numbers, as appears by the inspection and exami-
“nation of that Plan entered in the Journals of this Board of the 25th
“day of March last; But, in the Plans returned by said Thomas Hurd to
“the Lieutenant Governor and certified by him to be Copies of the said
“Original Plan, all those Letters and Numbers are entirely omitted:
“maliciously and falsely to induce (as this Board humbly conceive) an
“Opinion and Belief that no such Streets, Blocks and Lots, were marked
“and laid out, or did really and otherwise exist than in intention and
“imagination only; which he could not possibly but well know to be
“false and groundless.

“That, at the Time the Plan of the Town of Sydney was delivered
“to said Thomas Hurd by the Lieutenant Governor's Orders: by the
“same Orders was delivered to him, in a Book, a List of the Names of
“Persons to whom One hundred and Eighty Lots, so laid out and marked
“by Letters and Numbers, were assigned and appropriated: the greatest
“part of whom were then in the actual possession of, seated upon and
“clearing the same, and had built and were building Houses and Habita-
“tions on their said respective Lots (as by Deposition of George Rodgers,
“Esq. on file) That Avenues through the Woods for the Streets bound-
“ing the Blocks marked with Letters and Numbers were, previous to the
“arrival of said Thomas Hurd, opened by the Lieutenant Governor's
“Orders.

“That, by the Titles of the Plans returned by said Thomas Hurd
“to his Excellency the Lieutenant Governor, therein styling them,
“Plans of the intended Town of Sydney, the said Thomas Hurd is guilty of
“an High Contempt and Insult to His Excellency and this Government,
“and an endeavour to induce an Opinion and Idea that nothing had been
“previously done towards executing the said Plan, and that the whole was
“a Matter resting in Contemplation, idea and imagination, only; which
“he well knew was false and groundless, as part of the Town was then
“settled and settling as aforesaid.

“That the Pretences offered by the said Thomas Hurd to this Board,
“and, in divers Letters, (App. C. 176 to 211) to His Excellency the
“Lieutenant Governor, to account for his Delays and Neglects in execut-
“ing the Duty of his Office, and not carrying into execution the re-
“peated Orders and Commands of His Excellency respecting the Survey-
“ing and laying out Roads and Lands and duly executing Warrants of
“Survey delivered to him, are false, frivolous and evasive, and his Con-
“duct therein evidently calculated to impede the passing Grants of
“Lands in this Island, in order to raise discontent, dissensions, dissatis-
“faction and Sedition, among the Inhabitants, and to obstruct and retard
“the Progress of this Settlement, His Majesty's and the National Service,
“and frustrate the Measures of this Government, and to overthrow and
“subvert the Civil Establishment formed by His Majesty's Wisdom for
“this Island and its Dependencies.

“That, ever since the Arrival of said Thomas Hurd, the whole tenor

“of his conduct and behaviour has been highly undutiful, contempti-
“ous, disrespectful and unbecoming, towards His Majesty's Representa-
“tive and the Civil Government and Magistracy of this Island.

“That, from an early period after the Arrival of said Thomas Hurd,
“he has closely connected himself with, aided, counselled and abetted
“the few discontented, factious and turbulent, Inhabitants therein;
“and has openly and publicly associated and connected himself with the
“avowed Enemies and Opposers of His Majesty's Civil Government in
“this Island, and continued, and still does continue so to do; although
“they have openly and avowedly taken up Arms in violation of, and op-
“position to, the laws of the Land and Civil Powers of Government:
“and, after some of them (under solemn Charge of Capital Felony) had
“been rescued by Military Force from the Authority of the Civil Ma-
“gistracy and Government.

“That, for these and many other Reasons obvious to this Board, the
“said Thomas Hurd appears utterly unfit to be continued in the exercise
“of any Public Office in this Island, and it is humbly advised that he be
“suspended thereupon until His Majesty's Pleasure shall be farther known:
“And that in the mean time His Excellency will be pleased to appoint
“some fit and trusty Person to execute the Office of Surveyor General of
“Lands within this Island for the speedily expediting Grants therein.

“That it is the unanimous Opinion of this Board, that it was the Duty
“of the King's Attorney General of this Island, [Mr. MATHEWS,]
“before he had prepared any Drafts of Grants of Lands within the same,
“or had put his *Fiat* thereto, to have examined whether the Reports, or
“Returns, on the Warrants of Survey had been made in strict conformity
“to His Majesty's Instructions, (Copies of which he had been duly furnish-
“ed with, App. C. 145 and 175.) That he did make such Drafts of
“divers Grants and put his *Fiat* unto them, when it appeared the same
“had not passed through the requisite Forms and been made in confor-
“mity and agreeably to the King's Instructions; (App. C. 72 & 73)
“whereby he has neglected to perform, and has acted inconsistently
“with, his Public Duty: And, if the said Grants had passed the Seal of
“this Island, it might have rendered them invalid, and subjected His
“Excellency the Lieutenant Governor, and His Majesty's Council, to
“censure and removal from Office.”

Mr. Mathews, though officially bound to aid and support the Service;
yet not only evaded his Duty; but also, fomented internal Disturbances
and abetted Oppositions thereto.

In December 1785 he resigned his Seat in the Council alleging that
he conceived he had been treated with Contempt and held out as a Person
fostering sedition and suborning Colonel Yorke: That he could not recon-
cile his Ideas to the Measures: That the Council was only called to be
informed of Measures already determined: That he had received no com-
munications of the Royal Instructions relative to the Establishment of the
Colony and knew not the Powers of the Council: and finally, that he
was confident the Governor might fill up his Seat with a Person in whom
he could place more confidence.

The Truth is: That the Royal Instructions and the Powers of the
Council were manifestly known: That there had never appeared any Dis-
ference respecting Measures in the Council; Neither had there been any
Proposition from him (as the very Minutes may shew) which had not been
equally discussed and regarded, as any Proposition whatever made by any
other Member. Nor is it conceived to this Day, that there has been One
Single Act of the said Council, before or after that Date, which may
not stand the strictest Scrutiny of Candour as the most suitable to the
Complexion and actual State of things that could be devised.

With respect to his Communications with Colonel Yorke: The In-
habitants as well as DesBarres, had early begun to feel their baneful Effects
and were not so reserved to remark thereupon as he was (App. C. 468,
469, 470, &c.) With what Justice they suspected him? let it be
judged from the whole context of his Conduct. The Fact is: that having
persuaded Colonel Yorke to go all the Lengths narrated. Mr. Mathews
thought it expedient to secede from the Council in the Commence-
ment of the consequences, conscious he could not otherwise act his
Part easily.

And, upon his Resignation it must be observed, that it very ill became
him, while he thought proper to retain the Office with the Salary and
Emoluments of principal Law Officer of the Crown, to retire upon any
pretence from the Council; wherein he could apply his knowledge and
Authority, (if he meant to apply them well) to aiding the Good Admini-
stration of the Colony.

When applied to for Legal Advice, or Aid, his Answers have been
indefinite and evasive or provokingly nugatory, if he came to any point;
(App. C. 144 & 145, 170.) as an instance: In the Case of Colonel
Yorke withholding the Provisions, he advised referring to the King in
Council or the Lords of the Treasury; as if the necessities of the People
could have admitted such delay, and they would not have perished before

the Arrival of a Decision from England. Upon the most interesting and pressing urgencies he observed the most dangerous, undutiful and distressing, reserve of his Legal Opinion, until it was extorted: As, when even after the Order in Council was served upon him to give his Legal Opinion, in respect to Colonel Yorke's opposing the authority and jurisdiction of the Civil Power, it could not be obtained from him for nine days, notwithstanding repeated Requisitions, and the Chief Justice having obeyed in delivering in an Opinion on the second Day (App. C. 362 & 363).

He acted with criminal and unmanly duplicity, when, to give his opinion honestly and explicitly, might have tended to awaken humanity, to soften obstinacy, to instruct the uninformed, and to reconcile the differences that subsisted. Thus the sincere, humane and intelligent, Writer of the Letters, inserted above (page 19) being extremely anxious, in order to prevent the effusion of blood, to convince Colonel Yorke of his incompetency to resist the execution of the Chancery Writ, declares that he had once, and again, applied to Mr. Mathews earnestly requesting to inform the Colonel of the Law in such Cases and to endeavour to persuade him accordingly: That Mr. Mathews had answered he had done so, seriously and repeatedly, but in vain; as Colonel Yorke was resolved to resist: Yet, what evidently shews that these professions were untrue and deceptions, is that this very Mr. Mathews in his evidence, at the Court Martial of Lieutenant Norford for remonstrating against Colonel Yorke's Order to resist the Civil Power, confidently addressed the Court with saying that, "His situation was such that the Prisoner might ask him "Questions that it would not be prudent for him to answer,—that he held "the Doctrine of an Inferior being bound in the Prisoner's Case to obey "his Superior; though the Superior gave unlawful Orders." (App. C. "360).

Of the uncertainty, confusion and partiality, of his Opinions, those given on the several Occasions to the Custom-house are almost as many proofs (App. C. 146, 155 to 158, 162, 164, & 165.) Amidst all this, he was ever extremely ready to interfere and obtrude his Opinions, whenever they might tend to depress the Authority of Government and embarrass its Measures. Thus, when Drummond and Angel had arrived in the Brigantine Amelia with some Provisions from Venture, and deposed before the Council that the Vessel and Cargo, had been purchased and consigned to the Governor in behalf of the Crown for the relief of the perishing Inhabitants, and the Council (in which the Collector and the Comptroller of the Customs sat and concurred as Members) had ordered her to be admitted to Entry and to be unloaded into the Public Store, Mr. Mathews had been infidiously employed from the beginning in a correspondence, with those very Custom-house Officers, upon the Legality of the Measure and her being subject to seizure: And, though the Vessel and Cargo were considered to belong to the Crown and actually in the Governor's possession under that idea, it was concerted that they should proceed at length to seize her—if even the subsequent sinister practices of Drummond and Angel had not induced him to relinquish her to them. (App. C. 146.)

He exerted himself to impede the Settlement of the Colony by misrepresentations and personal correspondence and by the most insidious means (Deposition, &c. App. C. 131, 173, 348, 352, 354, 355 & 358).

About a Year before DesBarres received the Royal Orders to repair to England to give an Account of the proceedings which had taken place in the Colony, Messrs. Mathews, Cuyler, Hurd, Uncle, and other similar Characters, secretly fabricated a most virulent Libel, which they addressed to Lord Sydney, One of His Majesty's Secretaries of State: It was subscribed with eleven Signatures and entitled, *The Remonstrance and Petition of the principal Inhabitants of the Island of Cape Breton*. Though no more than the Signatures of three Persons from the Class of Inhabitants appear therein; One of these, who was in London in 1789, solemnly denied ever having put his hand to such Paper: The Second, has never been known as an Inhabitant in Cape Breton, nor as a principal Person any where in the World: The third is a palpable Forgery, inasmuch as it has only the Person's Surname, while the Christian Name, (of which it seems the real Writer was ignorant) is a Blank.

This infamous Performance was sent to England with Mr. HURD, who (having formally delivered it, and it having been accordingly received, into the Secretary of State's Office) spent two Years in circulating the same about London, and particularly among DesBarres' Friends, with the avowed design of weaning them from all regard of him and completely destroying his Character at large, (App. C. 366. to 368.)

If it is asked, why DesBarres did not support his Authority more effectually, and call in question, by some Legal Proceeding, even Misdemeanors, for which any of the lower class might be subjected to the last Severity of the Laws, (App. C. 349 to 351). It must be observed:

Was there ever such a Selection of Officers for any Government, Why was he sent along with such, into a situation of extreme difficulty, without being furnished with those requisites for the Objects of his Mission, which had been furnished to the other Governors for the support of all similar Denomination of Settlers, and which had been promised at his Departure to be sent to him? By which his constant employment was the invention of Expedients and he was at the mercy of every One, not only in the point of that Co-operation which it were his Duty as an Officer and Subject to administer, but also with respect to the very forbearance from Mischiefs?

He had early experienced, that, under these circumstances, to commit the Authority of the Laws and the Executive Power, would only be to expose them to contempt and to enlarge the Sphere of Criminality. The very Officers, whose co-operation would be necessary for such an attempt, were the very Conspirators. They had formed an Association (App. C. 424, 425, 426): Machinations were carrying on in Nova Scotia (App. A. 165, B. 222, C. 731): On the Spot, there was an Armed Force ready to crush him by trampling on the Laws: He could not have felt himself to be the Governor of a Colony, but for the personal respect and influence he enjoyed among the far more honourable lower Class (App. 40, 41, 42, 43,) who proved universally firm, dutiful and grateful, to the last: Without risking to spill the Blood of these, on the One, and of His Majesty's Troops, on the other side, he could not have attempted to vindicate his Authority. This he thought expedient to avoid, deeming it impossible, if matters should not alter and subside, but that the proper Department of Government of the Mother Country, in Justice, whether to its own Supreme Authority, or to him, or to them, would institute an ample and fair Enquiry from which the Guilty would receive adequate punishment to their Demerits. But an Investigation has been withheld.

Mr. UNCLE. On his Conduct and Suspension.

Vide: Documents (App. C. 48, 74, 75, 221, 222, &c.) also the Resolutions and Advice His Majesty's Colonial Council, viz:

Extract of a Memorial and Declaration on Oath laid before the Council on the 4th. of April 1786 by the Comptroller of His Majesty's Customs:

"I lament most sincerely, and am sorry for, the strange Pretext alleged by the Collector for resigning his Seat as a Member of this Board "and as a Magistrate, and I cannot refrain to unite in the general reprobation of his activity in endeavouring to impede and obstruct the growth "and prosperity of this Infant Government by employing himself, in a "most disgraceful manner, as a vile and wicked Tool to the Enemies of "the Public Welfare of this Island (Vide Note 65.)

"AT A Special and Extraordinary COUNCIL holden at "Sydney, assembled by the President's Order, on the 10th of April "1786. PRESENT: The Hon. Richard Gibbons (*President*) George "Rodgers and William Brown, (His Excellency the Lieutenant Governor, and the Hon. Richard Sweet and Alexander Haire being "absent from Town; but Expresses sent to them on the Business.) "IT appearing to the Members present that violent and unlawful Measures are apprehended and will be taken unlawfully to take possession of the Brigantine Rachael and her Cargo of provisions (now "in the Harbour of Louisbourg) purchased and destined for the Relief and "Subsistence of His Majesty's Subjects in this Government, in high "contempt of His Majesty's Authority and His Majesty's Civil Government in this Island.

"It is therefore resolved and ordered, that Thomas Moxley and John "Brooks do immediately proceed and take possession of the said Brigantine "and Cargo and keep the same in their safe and secure Custody and "suffer no Person, or Persons, whosoever to enter on Board, or take "possession of the same, without the express Command, Warrant and "Authority, of His Excellency the Lieutenant Governor and His Majesty's Council of this Island, for which purpose they are hereby specifically authorized and appointed to call all His Majesty's subjects "Civil and Military, all Justices of the Peace and all His Majesty's Officers "Civil and Military, to be aiding and assisting in this behalf.

"AT A COUNCIL holden at Sydney the 11th Day of April "1786, PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, Alexander Haire, George Rodgers "and William Brown.

"On Account of the difficulties made at the Custom house for admitting the Brigantine Rachael and her Cargo to an Entry and Permission to unload. It was moved by the Honorable Mr. Rodgers, that this "Board do come to a Resolution of giving orders for the landing and "and bringing to Sydney from on Board the said Brigantine Rachael 100

" Barrels of Flour for the present indispensibly necessary support of His Majesty's Subjects, the Civil Inhabitants of the Town of Sydney and its neighbourhood, the greater part of whom are now nearly in a perishing Condition for want of Bread or any substitute therefore, And, that Thomas Uncle, Esq. Collector of His Majesty's Customs for this Island, do grant a Permit therefore, in Obedience to this Order and by the Authority of His Majesty's Lieutenant Governor and Council of this Island of Cape Breton and its Dependencies, and that he be immediately served with an attested Copy of this Order and required to yield immediate Obedience thereto: And that the Board will farther consider and come to some Resolve and Order respecting the admission of the said Brigantine Rachael and her Cargo to an Entry and Permission to unload the remainder of her Cargo under all the special, peculiar and particular, circumstances of her Case. The Question being put, it was unanimously voted and resolved accordingly.

" Mr. Uncle the Collector was ordered to attend this Board, and the President ordered the Clerk to deliver the above mentioned Order to him. Mr. Uncle desired to have it read, which was done: but he refused to take the Paper and declared he would not pay any Obedience to it: For that he had received information that a Person was ready to make Oath that a Party went with Mr. Richardson last Night (of which the Honourable Mr. Sweet was One) to unload the Cargo: Upon which he was informed, by the Board, that the Party sent had no Authority, or Order whatever, to unload any part of the Cargo, and that the Honourable Mr. Sweet, did not go with them; and further, the President declared, that, whoever was the Person who told him so had spoken an untruth, and, if he was to swear to it, would be guilty of Perjury: For that every Member of the Council, except Mr. Sweet, knew that the Orders were quite of a different kind to those he mentioned, and that the whole Authority given to the Party with Mr. Richardson was given by the Board: To which Mr. Uncle replied that it did not signify, and that he would not take the Paper containing the Order of Council before mentioned, nor obey it.

" Whereupon it was unanimously resolved that Mr. Uncle's Treatment and Behaviour towards His Excellency the Lieutenant Governor and His Majesty's Council and His Majesty's Government of this Island, and his refusal to obey the said Resolve and Order, is an high Insult and Contempt, and that, his pretended difficulties of entering the Vessel or allowing the landing of the Flour for the sustenance of the People, appear to this Board to be intended to furnish His Majesty's Subjects in this Town and its neighbourhood; And it is therefore the humble Advice and Opinion of this Board to His Excellency, that His Majesty's Service indispensibly requires that Mr. Uncle should be suspended from acting in the execution of his Office as Collector of His Majesty's Customs for this Island and its Dependencies, until His Majesty's Pleasure shall be farther known: The Honourable Mr. Brown declared that being an Officer of the Customs with Mr. Uncle, from whom he had lately received many Insults, it might be considered that he gave his Vote through prejudice; On that account, he therefore wished to decline giving his Vote on this occasion.

With respect to the Conduct of Mr. CUYLER: Vide Remonstrances, Petitions, Declarations and Complaints on Oath, against him, &c. &c. (App. C. 41 to 45, 52, 54 to 61, 82, 84 and 85, 135 to 141, 349 to 351, 434 to 426). And the RESOLUTIONS of

HIS MAJESTY'S COLONIAL COUNCIL, advising his SUSPENSION. viz:

" AT A COUNCIL holden at Sydney on the 5th Day of June 1786, PRESENT: His Excellency the Governor, the Hon. Richard Gibbons, Richard Sweet, George Rodgers, and William Brown.

" Mr. Macoristine's Deposition was read: (App. C. 84, 85.) Thereupon the Honourable Mr. Rodgers read the following Resolution, and moved that the same be entered on the Journals; and the Question being put, it was unanimously voted and resolved accordingly: And it was ordered that Mr. Cuyler be furnished with an attested Copy thereof and of the former Resolutions of this Board respecting his Conduct in this Island.

" Upon solemn, mature and deliberate, Consideration of the Conduct of Mr. Cuyler, Secretary, Register and Clerk of the Council for the Island of Cape Breton, it was moved by the Honourable Mr. Rodgers, that the tenour of Mr. Cuyler's Conduct has been that of discontent, and disrespect towards the Governor and His Majesty's Council and Civil Administration, and calculated and intended to disturb the Peace and Good order and impede the Success of this Settlement.

" That (except his own Family and Servants) Mr. Cuyler and his pretended Associates, have not brought into this Island more than nine Heads of Families and twelve Single Persons making in the whole Sixty Persons: That Mr. Cuyler ought to have reported to the Lieutenant Governor the Names, and the number, of Persons who came from Quebec, and were entitled to Provisions from the Crown, long before the Stock brought with them was expended: That, after the Expediture of the said Provisions, Mr. Cuyler ought to have given to the Lieutenant Governor, a true and perfect Return of the Names and number of the said Persons then remaining in this Government: which he neglected to do. And, without the authority of several Persons mentioned in his List to Colonel Yorke, made Applications to Governor Parr and General Campbell at Halifax for Provisions on their behalf, to induce (as the Board conceives) an Opinion that His Excellency the Lieutenant Governor wanted sufficient Power, Ability, or inclination, to protect and support His Majesty's Subjects in this Settlement—and to promote an interference with, and opposition to, the Measures of the Civil Government in this Island, from the Government and Military Department of Nova Scotia—to impede the Progress and Success of the Settlement of this Island on the Plan directed by His Majesty and committed to the conduct of His Excellency the Governor.

" That Mr. Cuyler, without any lawful Power, or Authority, or just Cause, divested Mr. Haire of the Possession, Custody and Distribution, of Provisions which were sent by His Excellency Governor Haldimand, from Quebec for the Support of Settlers emigrating from thence to this Government; though Mr. Haire had been specifically appointed the Acting Commissary for issuing them.

" That Mr. Cuyler has busily employed himself to spirit up among the People, Discontent, Uneasiness, Distrust and Disrespect towards His Majesty's Government in this Island, and carried on a Correspondence, and closely connected himself, with, aided, counselled and abetted, the Opposers of the Civil Government and Administration thereof.

" That, for the foregoing Reasons it is the humble Opinion and Advice of this Board, that Mr. Cuyler ought not to act as Clerk of this Board or have the Custody of the Council Records, until His Majesty's Pleasure shall be further known."

1786.

On the 6th of June, after the Council had resolved to send the Chief Justice to England, to lay before His Majesty's Ministers the Circumstances and Exigencies of the Infant Colony and to state the Transactions which in the want of necessary Support had taken place, together with the Measures pursued thereupon (75). DesBarres received a Dispatch from Lord Sydney, dated Whitehall 19th April 1786, signifying his Lordship's incipient Notice of some of the Points, which had long and repeatedly been urged to consideration; but so far from realising the Assurances previously given (76), and to which he humbly conceived the result of his arduous Exertions farther entitled him, only conveyed perplexing Misconceptions, and Mistatements, of Matters and Facts (77).

(75) Minutes of His Majesty's Colonial Council. Also Occurrences, page 11, 41.

(76) *Extract*: Letter from LORD SYDNEY to DesBarres, dated Whitehall, 27th September, 1784. (App. A. 6. viz.)

" Nothing remains for me to add, but to assure you that you will find me always disposed in my Department to facilitate any Measure which you may represent, and which appears to be for the Good of His Majesty's Service, and the Prosperity of His Subjects under your Government, &c.

(77) Letter from LORD SYDNEY, dated Whitehall 19th April 1786, viz.

" YOUR several Letters, the Dates mentioned in the Margin [a] have been received and laid before the King: The three latter in Duplicate, the originals of which have not come to hand, having, I conclude, been transmitted by a circuitous route. From the representation contained in your first Letters [b] concerning the Overtures that had been made to you by the Whalers and Fishermen of Nantucket, Martha's Vineyard, &c. to emigrate with their Property and Fishing Vessels to Cape Breton, and to take the Oaths of Allegiance to His Majesty, provided their Vessels could be protected from Seizure, on Account of their not being British Built: I naturally expected that You would have waited for Instructions from hence, previous to your entering into any Engagements, especially when you were apprized that the Conditions which were proposed required the Sanction of an Act of Parliament to secure them, and I confess that it was not without much surprise and concern that, upon a perusal of your Letter of the 7th June, I found you had not only entered partly into the Engagements, which those People had desired, but had, in direct violation of that Public Faith which ought constantly to be observed between Countries at Peace, taken Measures for the Removal of the Subjects of the American States, under a Proclamation, wherein you have described yourself by a title [c] which you ought not have assumed, and promised indulgencies under your own authority, some of which, such as Supplies of Provisions, Necessaries, &c. it could never be the intention of Government to bestow, and which must, if complied with, subject this Country to very considerable Expence [d]. You will at the same time understand, that, though I have disapproved of your Proceedings upon this Oc-

[a] Letters to Lord Sydney, dated Cape Breton 7th June, 3d September, 9th & 10th November, 1785. (App. B. 13, 23, 24, 29, 30.)

[b] Letters to Lord Sydney, dated Cape Breton 27th November 1784, 23d February and 24th April, 1785. (App. B. 9, 10 & 11.) Vide also Reasons on the Expediency and National Advantage of colonising Cape Breton: Estimate of the Expence, &c. prepared and laid before Lord North by his Lordship's Command in 1783 (App. B. 1 to 4.)

[c] If Lord Sydney had been pleased to advert, that His Majesty's Governors of Provinces abroad (App. A. 175, and Documents referred to, &c.) are (in Governmental Proceedings) usually styled *Excellency* in pure deference to the Sovereign they represent on the Spot, his Lordship perhaps might have thought proper to save to himself the trouble of making this Remark on a matter of mere *Etiquette*. (App. A. 168.)

[d] In the Negotiations with the Whale Fishers and Others desirous to emigrate to the Infant Settlement, DesBarres could not be apprehensive of possibly incurring the least imputation of intending to violate the Public Faith: He had recommended their Proposals for Consideration, from a persuasion that they might prove productive of great national benefit: Although he knew the favourable Opinions which preceedingly had prevailed, both in the Secretary of State's Office and at the Treasury, on this head; yet he had not, and would not, presume to proceed into any Engagements of the Nature alluded to, without previously receiving the most explicit sanction. But, in the mean time, in Obedience to His Majesty's Royal Instructions, and in concordance with His Gracious Intentions towards His Loyal Subjects of that Description, he conceived it to be his incumbent Duty to hold out to them the usual indulgences in Provisions and some Assistance, to such as might stand in need thereof, for their removal. (App. B. 1, 2, 3, 4, 9, 10, 11. Vide also, An Act for the further Increase and Encouragement of Shipping and Navigation, 26 Geo. III. Also the following Extract dated London, 19 February, 1785, (App. A. 152.) viz.

" YOUR favour of the 7th December, came to my hands the 29th January, I took the earliest opportunity of calling on Mr. Nepean. I sent your Letter to him and desired he would appoint me an early Audience: Though I had two or three momentary Interviews (for you

" know how much he is taken up) I could not get any Conversation on the important Subject of your Letter, till the 16th Instant, when I dined with him, and when he informed me, that, by the Laws now in being, the Whalers and Fishermen of Nantucket, &c. who shall put themselves under Your Protection, will to all intents and purposes be considered as, and fully entitled unto all the Privileges of, British Subjects.

" I have signified to him, that I have not a doubt but that they would be so as to their Persons and Families, and Vessels and Craft employed in fishing; but that, as I suppose they would wish to carry their own Fish to Market, and perhaps take Freight from thence to England, I have doubts whether the Vessels so employed will not be liable to Seizure, unless protected by a Special Act of Parliament as you propose."

Extract of a Letter to Mr. ROSE from DesBarres, dated Sydney, 6th June 1785, (App. B. 14) and the Answer thereto, (App. A. 20) viz.

" I BEG you will be pleased to acquaint the Lords of His Majesty's Treasury, that, having received the enclosed Report of the Brig St. Peter, which brought a number of Loyalists from Quebec to this Place, and understanding that it was intended to dispose of this Vessel, I have thought it necessary to detain her, in order to assist in carrying into execution the full intention of the Laws of Trade and to watch the Fisheries upon the Coast as well as to attend the Survey of this and the contiguous Harbours; It will also afford a convenience in conveying here a number of Cape Cod, Martha's Vineyard and Nantucket, Fishermen and Whalers, who propose to continue in Allegiance to His Majesty and become Settlers.

Answer, dated Treasury Chambers, 24th August, 1785, viz.

" HAVING laid before the Lords Commissioners of His Majesty's Treasury, your Letter dated Sydney, Cape Breton, the 6th June last, acquainting their Lordships that you had found it necessary to detain the Government Brig St. Peter, sent to that Settlement from Quebec, to be employed in His Majesty's Service in your Government, I am commanded by their Lordships to acquaint you that they approve of your having detained the Brig St. Peter for the immediate Services under your Government, &c.

" *Lieut. Governor DesBarres.*"

" THO. STEELE"

"cañon, it is not meant that any of the Subjects of the United States, likely to become good Settlers, such as the Inhabitants of Nantucket, Martha's Vineyard, &c. who have been engaged in their Fisheries, and others, who there may be good reason to suppose have been suffering on account of the part they have taken in Support of the British Government, should not be admitted into His Majesty's remaining Dominions; But that this description of People should be so far accommodated as to be put into possession of such Lands as may be sufficient for the exercise of their several Occupations.

"It may, upon this Occasion, be necessary to inform you for your future guidance, that it is the determination of Government not to encourage the Southern Whale Fishery, that may be carried on by Persons who may remove from Nantucket, &c. excepting they shall exercise that Fishery directly from Great Britain.

"In the Establishment of all new Colonies, I am well aware that some Expences are certainly unavoidable, but at the same time it could have been wished that you had not undertaken the execution of any Works of Magnitude without first receiving the Approbation of Government for so doing. The Object which I principally allude to, is the erection of Barracks for the accommodation of the Troops, which might, and ought indeed, to have been done by some temporary expedient, such as hutting, &c., until the Plan and Estimate of the Expence had been properly considered. I must, therefore, recommend to you extreme caution in future in the expenditure of Public Monies, as it has been with great difficulty that I have been able to prevail on the Lords of the Treasury to accept the Bills you have drawn for that Service, and which, under the present Circumstances of the Case, will only be paid upon Account [r].

In respect to PROVISIONS, &c. Vide His Majesty's Instructions, (App. C. 450, A. 175.) Also the following Instructions of Lord Sydney, (App. A. 6.) viz.

"THE same Encouragement given to His Majesty's Loyal Subjects, who have retired from the United States of America into the Province of Nova Scotia, is extended to those who may settle in your Government."

PROCLAMATION to encourage the Accession of useful Settlers (App. C. 471): viz:

"BY His Excellency Joseph Frederick Wallat DesBarres, Esq. Lieutenant Governor and Commander in Chief of the Island of Cape Breton and its Dependencies, Chancellor of the same, &c. &c. &c."

"WHEREAS I have received good intelligence, that a number of Loyal Families, desirous to continue in their Allegiance to His Majesty and enjoy under the protection of His Gracious Government the Blessings of the British Constitution, are at a loss where to fix themselves, in a Way and Situations so as to secure to their Posterity the comfortable enjoyment of the fruits of their Industry and Labour; I have thought fit to inform them, that a Tract of Land, covered with valuable Timber and extending several Miles into the Country; situate on the Eastern Shore of Sydney Harbour, and having commodious and safe Anchorage for Shipping of all size, convenient Beaches for curing Fish, erecting Stages, building Stores, &c. is set apart, and laid out upon a Plan calculated to become an Opulent Settlement, for the Reception and Accommodation of Families intending to carry on Fishery, Trade and Farming, and peculiarly well adapted for establishing the Whaling Business on the largest Scale.

"The Plan hereto annexed (explaining the rule observed in laying out the said Land) will shew the particular advantage which Individuals may derive to themselves from it; by being enabled to accommodate themselves agreeably to their Means and Abilities and thereby of reaping the full value of their Labours in proportion to their respective Means of Industry and ingenuity, let whatever be the Degree of their Exertions. Settlers will be put in possession of as much Land, in eligible situations; as they may be enabled to improve: either abutting on Navigable Waters or some of the principal Roads, now opening to establish an easy intercourse of Commerce with all parts of the Island.

"Provisions will be allowed, at the same Rate and for the same period of time as have been allowed to the like Loyalists in Nova Scotia to commence from the Day of their Arrival in the Government, when they will also receive a Supply of Implements and Materials for building.

"Loyalists desirous to avail themselves of these advantages are to signify the same as speedily as possible, in order that they may be received on the Spot within the term One Year from this Date: Every reasonable Assistance, to those who may stand in need thereof for their Removal, will be afforded.

"Besides the Tract of Land above described, I have also set apart, the Harbour, and a District around Louisbourg as being likewise advantageously situated for carrying on the Fishery and Whaling Business. Dated at Sydney in the Island of Cape Breton this 1st Day of September 1785. "GOD SAVE THE KING."

[r] If even it could for a moment have been thought advisable, consistently with the Attentions due to the preservation of the Lives and Discipline of the Troops, to have huddled them in a Country generally covered during the whole Winter with at least from three to five Feet of Snow; it must have occurred upon reflection, that the Cost in Materials, &c. of such temporary Accommodation for one single Year would have amounted to nearly as much as actually has been incurred for erecting permanent (Vide Barracks, Plans, Elevations, Descriptions and Expence,

&c. of the Barracks and Public Buildings erected at Cape Breton, given into Office.)

The Military Commander in Chief was extremely urgent to have the Barracks ready for the Reception of the Troops (App. A. 153, 154.) Vide: Letters from MAJOR GENERAL CAMPBELL, dated Halifax, 5th and 18th July, 1785. (App. A. 153, 154.) viz.

"I WAS favoured with your Letter of the 28th June by Capt. Minchin, and in Answer I am to acquaint you, I shall give orders that a Regiment be immediately detached from hence and stationed between the Islands of Cape Breton and St. John's agreeable to the Orders I have received from His Majesty's Secretary at War, and I hope, if my health will permit, to have the pleasure of seeing you in a very short time.

"Although the Troops will be provided with Camp Equipage, yet I hope the Barracks will be so forward as to prevent the use of it, &c."

"JOHN CAMPBELL, M. Gen."

"I AM now to inform your Excellency that, agreeable to the Instructions which I have received from His Majesty's Secretary at War, I have detached Six Companies of the 33d Regiment to the Island of Cape Breton to be stationed there in such Parts as you may judge most convenient. These Companies are placed under the Command of Captain Stewart, until the Arrival of Colonel Yorke who will take the command of the Troops in that District.

"It appearing from your Excellency's Letter of the 28th of June, that no Barracks were then provided, or in any forwardness, for them; I have ordered a quantity of Camp Equipage for their immediate shelter, and would recommend the Spot they are to be stationed during the Winter should be pointed out as soon as possible, that they be employed without delay in assisting to prepare the Barracks necessary for their preservation in the cold weather.

"As I expect soon to be at Spanish River, I shall have an opportunity of consulting with your Excellency and Colonel Yorke, on the Arrangement necessary to be made of the Troops in your Island. In the mean time, as the Season is already far advanced, I must request that they may be kept as compact as possible, and that no time should be lost in forwarding their Barracks, &c."

"JOHN CAMPBELL, M. Gen."

The Necessity of building Barracks had, before DesBarres' Departure from England in 1784, been particularly stated (App. B. 1 to 6). In 1785, an Estimate of the Expence incurring, and to be incurred, therein and in the prosecution of the various other necessary Objects of the Public Service, had been transmitted: And, at the same time, it was proposed, that, until farther Directions should be received, the Accounts and Vouchers thereof would regularly be sent to Office at the End of every Quarter, and Bills drawn on the Lords of His Majesty's Treasury for the Balances (App. B. 20). Accordingly, the Bills were put into a Course of Acceptance, and the amount of £.5475 14s. 1½d. had been paid without any Objection, either from the Secretary of State's Office or Treasury, being signified to DesBarres (App. A. 161, B. 153). Hence the implied acquiescence of Government in the Measures proposed and pursued.

Upon intelligence of the great Difficulty (as expressed in this Dispatch) with which Lord Sydney had been able to prevail on the Lords of the Treasury to accept the Bills for the Service alluded to, steps were immediately taken for reducing all Manner of Expence to the lowest possible Scale until the explicit Determination of Government on every Point should arrive: The Artificers and Labourers employed in the Public works so far as it was practicable consistently with the faith of engagements were discharged &c. &c. And it was resolved to send home the Public Examiner of Accounts to explain minutely the Exigency of the Expenditure, the rectitude of the Accounts, and what had been done.

However, (whether owing to any subsequent Countermand from the

" The Brig St. Peter, which it appears by your Letter of the 3d September had been sent to Martha's Vineyard, &c. arrived at Cowes on the February 1st, having, I understand from Mr. Venture (who came from thence immediately to Town) made several attempts to return to Cape Breton, but from adverse Winds and bad Weather had been obliged to quit the American Coast, after having been exposed to much distress and great risk of foundering, before she could reach a Port. Mr. Venture, I find, has drawn Bills upon Mr. Roberts for Sums to a considerable amount, upon your Account, indeed even more than you had authorized him to expend, which he says, has been for the purchase of Provisions and other Refreshments, the greatest part of which being of a perishable Nature had been thrown overboard [f]. What the Lords of the Treasury intend to do with the Brig, and the remains of her

Secretary of State's Office, to the effect of Misrepresentations, or to any other Cause) the Lords of the Treasury had stopped without any Notice thereof to DesBarres and contrarily to the assurance given by Lord Sydney the farther Payment of the Bills.

The Expenditure, which (at the period of the general reduction, in July 1786) had been incurred, for Provisions and other aids to Loyalists and disbanded Troops: for Cost of Materials expended in erecting conformably to the Plans, Elevations and Descriptions given into Office Barracks, Magazines, Hospital, Brewhouse, Bakehouse, Guardhouse, &c. for the Military: Sheds for the immediate reception of destitute Settlers on their Arrival in the Infant Colony: Workshops and Implements for Carpenters, Joiners, Wheelwrights, Blacksmiths, &c. Storehouses for the preservation of Provisions, Stores, and Ammunition: Buildings, for holding the Courts of Judicature, performing Divine Worship, keeping Public Schools, transacting the Customhouse Business, Goals, Offices for the Secretary, the Superintendent and Overseers of the Public Works, &c: And for Pay to the Artificers and Labourers employed therein: for Purchase, Outfit and Support, of Vessels, and occasional hire of Others in the Exigences of the Service: and for sundry incidental Expenses, (App. B. 153, 154, 155, 156, &c.) amounted to £.16416 10 3
The Sum, paid by Treasury on Account, was 5547 14 1½
And DesBarres stood in Advance for the Support of the
Public Service £.10866 16 1½

[f] Account of Mr. VENTURE's Expedition, given into the Secretary of States Office in a Letter to Mr. Nepean, dated London 17th January 1786, (App. B. 204) viz.

" Governor DesBarres having honoured me with a trust and Agency to the American States for the purpose of procuring provisions for his Government, and to invite (by his Proclamations) useful Subjects to Settle in Cape Breton, I think it my duty to acquaint Lord Sydney with (and beg that you will lay before his Lordship) the result of that Expedition, which I undertook in His Majesty's Brigantine St. Peter, James Graham Commander.

" We Sailed from Sydney on the 10th of September 1785 and arrived at Rhode Island on the 16th of October: The Vessel having received much damage, from severe Gales of Wind, in her Sails, Rigging and Hull; Which, to repair (as nearly as I can estimate) cost £.200.

" Being well informed at Rhode Island from my own Observation (when at Halifax) and recent advice from my Correspondents there, that no provisions would be sent from thence to Cape Breton for the support of the Loyalists, as Governor DesBarres had been led to expect, I thought it proper to exert all the means in my Power to forward as large a Supply as my Circumstances, Credit, or Address, could engage (it being necessary at that late Season of the Year to make large allowances for Misfortune). I accordingly engaged three Vessels, besides our own to proceed with full Cargoes of provisions to Cape Breton on the most safe and advantageous terms I could procure: To effect which, I have drawn Bills on William Roberts, Esq. for £.1605, in which the Repairs of the St. Peter and her Cargo are included.

" For the Provisions loaded on Board the four different Vessels, I have transmitted to Mr. Roberts the Bills of Lading of each. The Invoices we had not time to procure, as an Act of the Assembly of that State, excluding British Vessels from their Ports, was put in force against us ten Days after it's being voted, and we were obliged to depart under pain of Seizure in a very unfit Condition to encounter a Sea Voyage.

" We proceeded, and about the 6th of December came off Sydney Harbour, and within three or four Leagues, when we were overtaken with a violent Gale and Snow Storm (the Wind blowing right on shore) and we only escaped being wrecked by the Wind veering to the Northward and Westward, continuing violent for Six Days with intense frost, in which time our Vessel became more like an Island of Ice (and apprehensive of foundering under it's pressure) than any manageable body; Our principal Rigging, rendered brittle by the frost, gave way in many places: Our Main Mast gone: We were under the necessity of throwing a great part of her Cargo overboard in order to lighten the Vessel, as we could scarcely keep her free with the Pumps. And having been driven in this condition hundred Leagues to the Eastward of any

" Port of the Continent, with three of the Crew disabled by the frost, one of whom has lost both his feet and the use of his hands, reducing our Complement to three in a Watch, Captain and Mate included, of whom one was constantly at the Pump. With the Opinion of every Person on board, we bore away, and thinking it more conducive to the interest of His Majesty's Service, and the Welfare of Cape Breton, I ordered her Destination to England rather than to the West Indies or any other Port; and, after a severe Passage of nine weeks in which we underwent many hardships, we arrived at Cowes, in the Isle of Wight, the 10th Instant.

" I have only to add, that the Day before our disaster we passed through the Road of Mainadieu, a small Fishing Port within the Island of Scattery, and we were informed that Governor DesBarres and the Inhabitants were in the greatest Distress for want of provisions, that none had arrived from the time of our departure in the beginning of September, and, should the other three Vessels miscarry, I am afraid the consequences will not only be distressing; but fatal!

" The Governor's Proclamations, which were dispersed from Rhode Island, produced an extraordinary passion for emigration from that Country to Cape Breton, and I can with confidence assure you, that, if Government thinks proper to confirm the encouragements which Governor DesBarres has led them to expect, Cape Breton, in a very short period, will be well stored with useful and industrious Inhabitants: I estimate between Six and Seven hundred Families, the most of them very respectable in Character and of considerable property in that Country, who only wait for my Report from hence to dispose of their Estates in that Country and repair to Cape Breton this Spring, exclusive of nearly the total of those following the Whaling Business from Nantucket; nor can I entertain a doubt but that those would be followed by thousands.

" Whatever information that, a Knowledge of that Country during twenty-six Years past, and my recent Observations, can enable me to give, I shall think it my Duty to offer at any time that it may be required, &c.

" To Ewan Nepean, Esq."

" THO. VENTURE."

Mr. VENTURE's Proceedings at Rhode Island, in a Letter to Mr. Roberts, dated Newport 10th. November 1785 (App. B. 287) viz:

" I have the honour to enclose to you a duplicate of Governor DesBarres's Letter of the 3d September ultimo, not doubting of your having received the original long since. We had a tedious passage of Six Weeks, and very Stormy Weather; but, notwithstanding our late arrival, in the principal business of my Mission, which was to engage useful Subjects to settle the Island of Cape Breton, I flatter myself to have succeeded in, to the utmost of the Governor's expectations or wishes, and he may rest assured that numbers of respectable Families will resort to him early in the Spring. The only Instructions I received from the Governor at parting were to govern my Conduct as the times and exigencies might require, and to act for him, as for myself, in whatever might be conducive to his welfare and the support of his Government. This confidential latitude afforded to me by his Excellency, and the Zeal and sincere attachment I have for him, has led me to deviate from the strict line of Business, by exceeding the Credit the Governor by this has directed; But I flatter myself the following Reasons will justify my Conduct to you; nor can I entertain a doubt of their meeting with the approbation of the Governor, and hope to have the honor of being the bearer to you of his Satisfaction of my Conduct.

" The Governor was led to expect that a sufficient quantity of provisions for his Government would be sent to him from Halifax by the Commissary of that Department: We put into that Place in our way here, and I discovered plainly that Governor DesBarres's expectations on that head had only been a Report to amuse him from looking for Supplies elsewhere, and thereby distress his Government, probably by a very serious and distressful famine; For, be assured that both, the people, and (I am sorry to add) the Government of Halifax are indolent, fatigable, and often avail themselves of the most unjustifiable means to subvert and crush the Infant Colony of Cape Breton."

" I had Letters of Halifax as late as the 22d. Ultimo, advising me that Provisions had been sent from thence for the Troops only, that

" Cargo, or with respect to the Payment of Mr. Venture's Bills, I cannot at this moment ascertain; the Matter is however under their Lordship's consideration, and will shortly be determined [g].

" The Ordinance which you caused to be issued upon your arrival declaring the Establishment of the Laws of England, was certainly unnecessary, as those Laws of course operate in full force in every New Colony unless it should be provided for otherwise by Special Authority [h].

" were at Sydney (about 300 men) but not the least appearance of any being sent for the Governor.

" I had the news of a large Vessel that left Sydney at the time, destined to return with provisions, having been cast away at Penobscot in the late Gale, in which many other Vessels have been lost.

" Again these States have recently resolved that no British Ships shall enter their Ports, nor even their own Vessels be permitted to carry Provisions to any British Colony after the 13th Instant. I herewith enclose to you the Act passed ten days ago. We are ordered to depart in two days on pain of Seizure, and we find ourselves much hurried to complete what we have undertaken. And lastly, the Governor will have several hundreds to supply with provisions early in the Spring, whom his Proclamations have invited to his Government from those States: To disappoint these New Settlers, in so material a point, would probably prove the ruin of the Government, and render every future attempt of its Settlement abortive. And I must beg leave to observe farther that every malicious Insinuation has been transmitted from Halifax to this Country to injure Governor DesBarres's Credit and to depreciate the currency of his Paper; and, had not my own Character been known to several, I should not have been able to have raised £.100. I flatter myself the exigency will be sufficiently evident to apologize for what I have done, and guarantee every honor to my negotiations.

" I have set on foot three Vessels, besides our own (the St. Peter) with a handsome supply of every thing I could procure, on the best terms in my power. To engage and assist them, it was necessary to take an interest in each for the Governor's Account. I thought to have had it in my power to have sent you the particulars Invoices of each; but they are so large and our limited time so short, that, it is impossible; nor do I think it will be even possible to adjust the Accounts critically of every Disburse, and must leave the final adjustment to a future period and for which purpose shall leave my Powers with a Gentleman of probity to settle the same in my Absence; but the Balance, I believe, either way will be but trifling. You have herewith Bills of Lading for each Vessel. The first the *Hannab* (David Bowen, Master): Her Cargo amounts to about £.800: the Governor's Interest therein by Bills drawn by me £.350; and sailed the 10th inst. The next, the *Betsy and Polly* (William Barker, Master) Amount of her Cargo about £.650: Interest in her £.150 as above. The third is the *Brigantine Amelia*: (Capt. Drummond, Master) Amount of her Cargo: about £.1000: Interest in her £.350 as before. Our own Vessel the *St. Peter*: (James Graham, Master) Amount in her about £.600, the whole for the Governor: The Repairs of the Vessel (being much damaged in Sails and Rigging coming here) will be about £.200. with several other small Disbursements, and for which I have drawn the following Bills, which I hope will meet with honor and approbation. The whole must fail to-morrow, and I beg you will excuse incorrectness as we have much to do and have much at stake from the violence of the People we are amongst. Hoping to have the pleasure of waiting upon you soon from Governor DesBarres, I remain, &c.

" To Wm. Roberts, Esq."

" THO. VENTURE."

[g] THE truth is: that (about three Months previous to the Date of Lord Sydney's Dispatch) the Lords of His Majesty's Treasury, had actually directed the St. Peter and her Cargo of Provisions to be delivered up to a Merchant in the City on their Lordship's Account, without any regard to the very peculiar existing Circumstances, viz. that the said Provisions had actually been procured and paid for, by DesBarres, for the relief of His Majesty's Subjects in Cape Breton in consequence of the failure of necessary supplies from Government. And, with respect to Mr. Venture's Bills, their Lordships had determined that, "as the same should have been drawn by the Governor who was alone responsible for the proper expenditure of the Public Money and best able to explain the necessity of the Service, they could not give Directions for their Acceptance."

ORDER to deliver up the St. Peter and Cargo of Provisions, dated, Treasury Chambers, 24th January, 1786. (App. C. 454-) viz.

" I am commanded, by the Lords Commissioners of His Majesty's Treasury, to desire you will lose no time in bringing the Brig St. Peter and her Cargo (now off Cowes) into the River Thames, and that, on your arrival there, you will deliver the said Brig and Cargo to Messrs.

Rassleigh and Co. of Garlick Hill, Merchants, who have their Lordship's Directions to receive the same.

" To Mr. Venture,"

" GEORGE ROSE."

Representation on Mr. VENTURE's BILLS, by Mr. Roberts in a Letter to Mr. Nepean, dated London, 16 Jan. 1786. (App. B. 202) viz.

" Lieutenant Governor DesBarres of the Island of Cape Breton apprehending in September last, that numerous Loyalists, and others, employed by him in forming a Settlement on that Island, would be reduced to the greatest distress for want of provisions, conceiving it his Duty to prevent as much as possible the then impending Calamity of Famine, which approached very fast, directed Captain Thomas Venture to repair to the Continent of America in search of provisions; and Mr. Venture finding, that no Supply was likely to be sent from Nova Scotia, proceeded to Rhode Island, and there purchased such Provisions as he could procure, and put them on board four Vessels, as will appear by the four Bills of Lading I have the honor to enclose, and I beg the favor of your laying them before Lord Sydney, together with a List of Bills of Exchange drawn by Mr. Venture, upon me for the payment of those provisions; but, as I am not possessed of any Fund to enable my discharging those Bills, I have to request the additional favour of your moving Lord Sydney to honour me with such Directions as his Lordship may think necessary on this occasion.

" The most extraordinary Opposition of the People and Government of Nova Scotia to His Majesty's Intentions in forming a Settlement at Cape Breton, is made a subject of great Complaint in various Letters from that Island, which, I am informed, made it absolutely necessary for Mr. DesBarres to take the Steps he has done to prevent the unfortunate Inhabitants of the Town of Sydney from starving, &c."

" To Evan Nepean, Esq."

" W. ROBERTS."

DETERMINATION of the Lords of the Treasury, dated Treasury Chambers, 30 January 1786, (App. A. 160.) viz.

" Having laid before the Lords Commissioners of His Majesty's Treasury a Letter from Mr. Nepean, of the 18th Instant, transmitting by direction of Lord Sydney a Letter from you, as Agent to Lieutenant Governor DesBarres of the Island of Cape Breton, enclosing a List of Bills drawn on you by Mr. Thomas Venture, for provisions purchased by Order of the Lieutenant Governor for the Use of the Loyalists and others employed in forming a Settlement on that Island, I am commanded by their Lordships to acquaint you that they cannot give Directions for the Acceptance of the said Bills, as the same should have been drawn by the Governor, who is alone responsible for the proper expenditure of the Money and best able to explain to their Lordships the necessity of the Service, &c.

" To W. Roberts, Esq."

" THO. STEELE."

Mr. VENTURE's MEMORIAL addressed to the RIGHT HONORABLE WILLIAM PITT, &c. &c. &c. dated 23d February, 1786, (App. B. 215-) viz.

" That your Memorialists, in the beginning of last June went to Cape Breton, where Governor DesBarres was indefatigably exerting himself for the establishment of that Island, almost destitute of the Assistance of any other Person capable of directing the necessary Operations of any one Department, your Memorialist, abandoning his private pursuits, entered as a Volunteer, and, at the Lieutenant Governor's Requisition, engaged in the Surveying Department, in which laborious Service he was employed about three months.

" In the month of September the Report of the Provisions in Store did not amount to a Supply for One Month, and the Lieutenant Governor, having received no Advice that he could rely on, and his prospects of being supplied with provisions from whence he expected being uncertain, solicited and engaged your Memorialist to go to Rhode Island, &c. in His Majesty's armed Brig St. Peter, under general Directions to relieve, and act for the benefit of, his Government, as the exigency of its Situation or circumstances might come to the knowledge of your Memorialists, honouring him with an implicit reliance on his Conduct and Integrity, together with a specific Credit of £.800 on his Agent Mr. Roberts, and an assurance that a further Credit would be established, should he receive intimation from the Memorialist of its being wanted. And how far soever the Lieutenant Governor as Principal, or the Memorialist as his Volunteer Agent, may have been deficient in forms, he can with truth aver and

" The Appointment of Justices of the Peace may have been very proper for the internal Regulation of the Settlement; But I could not help observing upon a comparison of the List of the Council appointed by you, immediately after your Arrival upon the Island, as reported in Your Letter of the 28th February 1785, and a Minute which has been delivered within these few Days to me, that a considerable Change has been made without even a Reason assigned by you for the Suspension or Removal of those Persons who are not in Possession of their Seats at that Board, &c. [i]

" *Lieut. Governor DesBarres.*"

" SYDNEY."

" maintain that there has not been any abuse of Honour, Integrity or Confidence.

" Your Memorialist being well apprized of the very alarming predicament in which that Government stood in the beginning of November, and which, with pity and concern, he apprehends is now suffering every Calamity from Famine; as the Memorialist had certain information at the Port of Mainadieu in the beginning of December last that no provisions had at that time arrived, and that Famine and great Disturbances prevailed at Sydney therefrom; and the subsequent and continual stormy Weather, which drove the Memorialist off that Coast, scarcely affords a probable hope that any of the other three Vessels he had loaded at Rhode Island would gain any Port in Cape Breton, in which case every Relief is secluded until next May.

" Your Memorialist, conceiving himself bound by every becoming sentiment to exert himself for the relief of his Constituent and the Preservation of His Majesty's Subjects, did load three Vessels, (besides the St. Peter) with provisions, and consigned the whole to Governor DesBarres, transmitting to Mr. Roberts the Vouchers and reasons for his negotiations, and for which account he drew Bills on said Mr. Roberts, chargeable to Lieutenant Governor DesBarres, for £.1605, which the Lords Commissioners of His Majesty's Treasury refuse to enable Mr. Roberts to accept.

" Their Lordships Determination sufficiently points out to your ever respectful Memorialist the expediency and propriety of their Lordships refusal. He only humbly conceives that the consequence attending the disgrace of the Lieutenant Governor's Credit, (when it becomes known in that Country) must be the ruin of those who have advanced their property upon the strength of it, and must also effectually disqualify the Lieutenant Governor from carrying on any farther Operations or Service, where Credit may be necessary; probably entail a general Diffidence on Bills of a public denomination.

" Your Memorialist further begs leave to represent that their Lordships, have assumed and taken for the Account of the Treasury the Brig St. Peter and her Cargo, which constituted at Rhode Island upwards of £.800 of these identical Investments for the whole of which your Memorialist had drawn £.1605, as before stated, &c.

PAYMENT of the PROVISIONS in question, delivered up by Order from the Treasury. *Mr. Roberts* to DesBarres, dated Charlton Street, 1st February 1786, (App. C. 471.) viz.

" Mr. Venture arrived in the St. Peter and having drawn upon me for £.1605, which is more than double the Credit you directed me to give this Gentleman, I shall pay as many of his Bills as will amount to what you have ordered (£800) leaving him to liquidate the rest in the best manner he can: And, as he writes to you by this conveyance, I must refer you to an Account of his Proceedings from himself: Vide also Mr. Roberts Account transmitted.

[b] SUBSEQUENT Events, however, might perhaps justify this precaution, which his Lordship was pleased to consider as unnecessary. Vile Proceedings of the Vestry at Sydney in Cape Breton (in August, Sept. and Oct. 1789, on Complaints against Mr. Matthews) together with the Memorial addressed by the Rector and Churchwardens to the then acting Lieutenant Governor (Macarwick) which he refused to receive, alleging that " he did not think, that the Church of England, nor the Laws of England, were established there, &c: (App. C. 433).

[i] IT is an absolute Fact: that, during the whole period of DesBarres Administration of the Government of Cape Breton, no one person had been suspended from the Office of a Member of the Colonial Council: The Reasons of the Changes which occasionally happened, were stated in the Minutes and Documents of that Board (regularly transmitted, in Duplicate, both to the Secretary of State's Office and to the Lord's of the Committee of His Majesty's Privy Council of Trade and Plantations) and referred to in his Dispatches to Lord Sydney. The first Instance was in the Admission of Messrs. Gibbons, Moncrieffe, and Matthews, to Seats at the said Board, upon their arrival at the Infant Settlement in July 1785: Every subsequent instance happened in result of positive Resignations, and then Persons deemed the most fit in the Colony for filling up the Vacancies were accordingly appointed. (Vide. Minutes of Council the 21st Feb. 25th July 10th and 11th. Dec. 1785 and 5th. March 1786: Also App. B. 32, 33, 34. C. 48, 49, 74, 75, 98, &c.)

THE Chief Justice and the Colonial Examiner of the Public Accounts (78) arrived in London in July 1786; and, in September of the Year following, (without any of the Objects having been effected) returned to Cape Breton.

Their earlier intelligence had announced some momentary Hope of the fostering Intentions of Government (79), and whatever were the hardships of his Duty, DesBarres, in the mean time firmly persevered to rely on the promised Support for carrying on the Settlement of the Colony; not doubting that, upon information of the unhappy Occurrences which had taken place in consequence of his Disappointment therein, the just Consideration of Government would be moved and all Points would of course be rectified: With respect to Aids in Provisions, &c. the ordained Distribution thereof, to above 30,000 People in the District of Nova Scotia alone, manifested the Liberality of its Intentions (80); it was therefore thought reasonable to ascribe, merely to eventual Mistakes or Neglects in the inferior Departments, the Exclusion (not less fatal than singular) of the more needy and destitute Settlers of Cape Breton from participating in it.

The Embarrassments arising from all the various Sources, and particularly from the return under protest of Mr. Venture's Bills to Rhode Island, from the intelligence of the Proceedings in respect to the St. Peter, and from the Nonpayment of DesBarres Disbursements for the Support of the Colony, were seriously felt (81). In this conjuncture of Affairs, there was no resource; either for satisfying and securing the clamorous Creditors who had supplied the Public Service, or for procuring farther means of existence to the People, but, by proceeding to sell away a part, and execute Mortgages of the remainder, of his Property (82).

1787.

IN the month of June (1787) it was learned at Cape Breton (83) that the Weight of an inconceivable Influence had by means of misrepresentations and perversions, risen insuperable Obstacles to the Accomplishment of the Settlement of the Island—that no consideration of the Sufferings of the People, who had assembled on the Public Faith to form a Colony for the national Advantage, would

(78) Lord Sydney's Dispatch (Page 42) confirmed the necessity of sending the Examiner of the Public Accounts to England to elucidate in the Public Offices all the Minutiae, Circumstances and Exigency, of the Expenditure as well as to evince the rectitude of the Accounts.

(79) Vide Letter from the EXAMINER OF THE PUBLIC ACCOUNTS to DesBarres, dated London, 16th July, 1786, (App. 162.) viz.

"I EXPECT to be with you in the month of September. I hope and expect every thing will go right, and your Virtues and arduous exertions will be rewarded by your Sovereign. The King has all the Papers and means to read the whole. This Note, I write in great haste at the New Yorke Coffee House. The Vessel is to sail immediately, &c. H. W. PERRY."

Vide Letter from Chief Justice Gibbons to DesBarres, dated London 11th August 1786, (App. A. 164.) viz.

"I AM sorry to tell you, that I have not yet been able to get your Public Accounts examined and passed, or to obtain any Order for Provisions being sent out, or any Determination on any point of Cape Breton Affairs.

"Captain James Luttrell came to Town the 9th, and I had the honour of seeing him yesterday morning at Cumberland House. I related, in as brief a manner as I could, the State of Affairs in Cape Breton: The delays and difficulty of Audience at Whitehall: The importance, to yourself and to the Island in having your Accounts passed and your Bills paid, and Provisions sent put in time, as the first Objects to be attended to: The Necessity of your Friends exertions to prevent your absolute ruin, by the return of your Bills, &c. He immediately wrote to Mr. Nepean and recommended most earnestly an attention and dispatch to your Affairs, expressing his Friendship and Confidence in your Honour, Ability, Integrity, Merit, &c. &c. in stronger and more emphatic terms than ever I remember before to have met with in any Letter. He supposed his Letter would be shewn to Lord Sydney. He directed me to deliver it myself, and said that he would, if he had an opportunity before leaving Town, speak to His Lordship, Mr. Pitt, Mr. Steele, &c. on the Subjects.

"With some difficulty, I saw Mr. Nepean, who has been, ever since my arrival, excessively busy. He read the Letter, and said he would write to Captain Luttrell. He assured me that Lord Sydney and himself were sincerely your Friends, and desirous of evincing it. I stated your impending ruin, by having your Accounts delayed; and the Salvation of the Settlement, by Provisions being sent out in time, as the two first Objects of Attention: That the other Matters might be deferred to a longer and more leisureable Consideration. He answered that the Papers were passing among the Ministry for perusal and consideration, and I was to have a Hearing (I think he said public) that he would be glad to see me again in a few Days."

(80) Vide page 11, Note 29.

(81) App. B. 222, C. 173, &c.

(82) Vide Sales and Mortgages of DesBarres' Property to the Amount of £.13,550, in June and July 1786, for discharging and securing the Payment of Demands for Supplies to carry on the Public Service at Cape Breton. (App. C. 472 to 479, &c.)

(83) App. A. 163 to 168, &c.

be sufficient to induce Government to allow them any Provisions; and that it seemed to be determined to leave the Colony to its own Natural Advantages to become populous, or not, in the ordinary Course of Events (84).

Messrs. Hurd and Uncle, suspended for Misconduct in Cape Breton (85), and Colonel Yorke, had arrived in London: and Mr. Drummond was soliciting in the Public Offices the Payment of Demands, which the Colonial Council had justly reprobated and refused to admit (86). And they were exerting every means of Influence in their Power, to cast improper lights on the actual state of Affairs (87).

It appears, from a Narrative given by the Chief Justice of his Proceedings, that, during the whole period of his Stay in England, he had only been able to obtain one short Audience from the Secretary of State, in which he represents to have found Lord Sydney so thoroughly prepossessed as to render all Remonstrance, Evidence and Proofs, on his part utterly unavailing (88).

(84) Vide: Chief Justice Gibbons to DesBarres, dated London, 15 September 1786, (App. A. 167). viz.

" I HAVE this day been with Mr. Nepean—talked of Provisions; but that consideration is totally rejected: And no consideration of the Distress of the People or to encourage their Stay in, or others to come to, the Colony, will be sufficient to procure them Provisions from the Crown—It seems determined to leave the Island to its own natural Advantages; to become populous, or not, in the ordinary Course of Events."

(85) Vide page 37 to 40.

(86) Vide page 17, Note 50.

(87) Vide App. C. 252, 263, &c. Also, Letter from Chief Justice Gibbons, dated London, 21st November 1786, (App. A. 168) viz.

" I HAVE every Reason to think the utmost Exertions of Military Interest are employed to support Colonel Yorke and the 33d Regiment, and to injure you and the Civil Power of Cape Breton; But, if Truth and Justice are not empty Names, the Civil Side of the Question must prevail."

Mr. Hurd was circulating about London, a Libel with forged Subscriptions, addressed to Lord Sydney, (App. C. 366, &c.)—Reprehensible and unworthy Proceedings were countenanced (App. A. 168)—Calumnious Memorials and Declarations were received at the Treasury, upon which partial and unjust Determinations were past. Vide, Papers from Champion and Dickason, Drummond, &c: and References thereof to, and Opinions of, the Comptrollers of the Army Accounts—from which, three Years afterwards upon a true Knowledge of the Case (in the Month of March 1790) they were pleased to retract, in the following Words, viz.

" WE called Lieutenant Governor DesBarres before us, in order to give him an Opportunity of explaining his Conduct relative to the Business, which, in Justice to him, it is incumbent upon us to say, he has done to our entire Satisfaction. He entered into a Detail of the whole Transaction from its Origin, produced to us the Original Minutes of the Council relative thereto, explained the Cause of the Seizure of the Cargo, and supported the Propriety of his Measures by authentic Documents. By the Defence of Lieutenant Governor DesBarres it appears, that, although Lieut. Drummond has been a Sufferer; yet his Losses are not to the extent which he claims, and are in some degree to be attributed to Misfortune, and perhaps to an Appearance of dubious Conduct, at the time, on his Part." (App. C. 458, 480 to 488, &c.)

(88) Vide Chief Justice Gibbon's Narrative (App. C. 399) viz:

" THE Chief Justice had often solicited an Audience of Lord Sydney, but did not obtain that Honour until after Colonel Yorke had arrived in England and had been at the Public Offices, when the Chief Justice was admitted to about an hour's Audience of his Lordship, who put many Questions to him seemingly pointed to prove a Misconduct in Lieutenant Governor DesBarres, and the Civil Department of the Government in Cape Breton; to which the Chief Justice gave candid Answers, and, when a simple negative or Affirmative could not have fully conveyed an Idea of the truth he took the liberty of adding such explanations as he conceived might prevent a Misconception of the Facts; But his Lordship appeared to be astonished at the relation of the Transactions and to conceive them to be incredible. After which he could never obtain the Honour of being admitted to his Lordship, while he stayed in England.

Vide: Minutes taken by Chief Justice Gibbons transmitted to, and received by, DesBarres on the 8th June 1787, (App. A. 165). viz:

" Thursday, 24th August 1786, AUDIENCE of LORD SYDNEY (Mr. Nepean present.)

Changes in the Council. " Lord Sydney expressed a Surprise and Displeasure at the Changes made in the Council—said, all the Public Officers (except myself) had been put out of the Council, and denied the propriety of the proposed election to the Military Staff. I represented to his Lordship that, in the Minutes of the Council he would find the Reasons on which those Proceedings were grounded—that, when the Differences between the Civil and Military Departments became important and the Subsistence and Peace of the Staff Officers depended on their not opposing that Line, it was deemed that their Situation rendered them not so free and independent, in advising and acting as Councillors in the King's Service, as Members of that Board ought to be: That Major Moncrieffe and Mr. Lovel, who were present in the Council expressed their Approbation of the Governor's Proceeding, and justice of the Reason, and a Satisfaction at his having put in their power in so candid a manner to avoid the difficulties they might otherwise have lain under—That Mr. Matthews and Mr. Uncle were not dismissed from the Board; but voluntarily resigned—That while any of them were of the Board every Measure of the least Importance was carried unanimously, and they had nothing to say in Opposition; and I referred to the Minutes of the Council to verify it—That the Reasons for suspending Mr. Uncle as Collector, Mr. Hurd as Surveyor, and Mr. Cuyler as Clerk of the Council, appear upon the Minutes of the Council, and the measure appeared indispensibly necessary for the emergent necessity of carrying on the Public Service of the Government, &c.

Military Dispute. " Lord Sydney said he would not, then, determine which Party was right or wrong—that something might be wrong on both Sides—that he thought some of the Proceedings were rather violent—that something in my Charge was too much—that Military Opposition to the Civil Authority was wrong—that he disapproved of some part of Colonel Yorke's Proceedings—That, in such Country as this, no opposition to the Civil Authority would be countenanced or justified—That Colonel Yorke bore an excellent Character as a good Man and Officer, and the Regiment an excellent Character also—that nothing appeared in the Proceedings to shew any preceding Intentions of Dispute with the Civil Government in the Military, until the Contest respect-

Under these circumstances, having learned that Complaints against DesBarres were received in the Secretary of State's Office, and Mr. Nepean having upon his inquiries acknowledged the same, he requested a Communication of them, alledging his having been sent Home for the express purpose of explaining all the Matters relative to DesBarres' Administration and that it was probable he might, when he should know what these Complaints were, be able to give upon the Spot satisfactory Answers thereto: But Mr. Nepean denied to him the Communication of them, and said that they would be sent to DesBarres to answer (89).

Subsequently, on hearing a Report that DesBarres was to be removed, the Chief Justice again resorted to the Secretary of State's Office, where Mr. Nepean informed—that the Brig Relief was ordered out to bring him to England; but that he would not be superseded on his coming from the Government; although there were difficulties, respecting who should command in his Absence—that his Friends thought it requisite, for his own Honour, he should come Home; as well to support the Representations made on his Side, as to obviate those against him—of the Tenour and Substance whereof the Chief Justice declared he had not been able to obtain any Knowledge (90). From his Observations however, of the general Complexion of Things, he thought it necessary to warn DesBarres, that, in order to place his Reputation and Honour in that Point of View in which he wished them to appear and to do an important Service to the King's Authority and the Laws and Constitution of this Kingdom, he would have to contend against a most violent Opposition (91).

Lord Sydney had, in September preceding, reported on the Accounts of Expenditures a

"ing Provisions begun—that the Military could have no Motives to enter into such an Opposition as they could have no Interest to serve, and were soon to be removed; and asked me to explain, what such Motives could be?"

"I answered, that, Facts of Opposition were evident. That it was difficult, perhaps impossible, for me to explain the secret Motives that might have actuated Colonel Yorke—That the matter of Provisions was the only Subject then left, on which a Contest could be grounded—That Lieutenant Governor DesBarres had been thwarted in many Instances by Colonel Yorke, and matters had been said and done, evidently with an Intention, to provoke a Rupture between him and the Military before the Dispute began with Colonel Yorke respecting the Provisions, which the Lieutenant Governor passed unnoticed in order to avoid an open Breach, and, on some Occasions, greatly incommoded himself and the Civil Officers to gratify vexatious Requisitions from the Military. That it was well known at Halifax, and I knew myself, that before Lieutenant Governor DesBarres came out (on hearing of the Establishment intended for Cape Breton) a Party in that Province possessing an Influence on Governor Parr were exerting themselves to prevent the Plan of Government and Settlement for the Island being successful, and I was frequently told, by Persons from Governor Parr's House and Table, and by Mr. Matthews himself (one of them) that the Civil Establishment would be struck off in the last Spring—that Colonel Yorke and the Officers of the 33d Regiment at Halifax shewed on all occasions an unfavourable Disposition toward the Infant Colony—That Colonel Yorke was extremely intimate at Governor Parr's House, and might easily be influenced by his Prejudices and Wishes—That his whole Conduct, after coming to Sydney, accorded with being under such an influence and prejudice."

(89) Vide App. A. 166, 167. Also Chief Justice Gibbons Narrative, (App. C. 399.) viz.

"SOME time after the Arrival of Colonel Yorke and Mr. Hurd in London, the Chief Justice being informed that Complaints had been exhibited at the Secretary of State's Office, without loss of time, applied at the Office to know if the Information was well founded. Mr. Nepean said that there were such Complaints in the Office.—The Chief Justice requested to have the same communicated to him, as he was sent home to explain all matters respecting the Governor's Administration, who would expect he should endeavour to obtain every Information relative thereto, and as it was probable, when he should know what those Complaints were, that he might be able to give upon the Spot satisfactory Answers.—Mr. Nepean replied, that the Complaints would not be communicated to the Chief Justice; but they should be sent to Governor DesBarres for himself to Answer."

(90) Letter from Chief Justice Gibbons to DesBarres, dated London 21st, November 1786, (App. A. 168.) viz.

"Repeated reports have been spread that you were or would be superseded, and Governor Hamilton appointed in your Place. I purposely waited on Mr. Nepean and mentioned the matter and requested to know if there was any foundation for the Reports. He told me that Governor Hamilton was to have the first Vacancy that fell; but was not appointed in your Place—that Captain Gravois was to go out in the Brig Relief, to bring you to England, so soon as she should be ready for sailing.—Mr. Nepean farther informed me that you were not to be superseded on your coming from the Government: but there were difficulties in pointing out who should command in your Absence—that your Friends thought it for your own Honour to come Home; as well to support the Representations made on your side as to obviate those against you, the Tenour and Substance of which latter I cannot get a Knowledge of.—Mr. Knill, who is much your Friend, writes to you on the Subject by this Conveyance. Captain James Luttrell assures that the Duke of Richmond is warmly your Friend, as likewise Lord Sydney, Mr. Nepean, &c. I wrote to you before that the latter had given the same Assurances—however, as Opinions often change on Reconsideration, the Orders for your coming Home may possibly be altered, especially as a proper temporary successor in the Command during your Absence is so difficult, if possible, to be found in the Island—Although, if your Money Concerns should not make it inconvenient to you to come, your being here would be very important, advisable and advantageous."

(91) Letter from Chief Justice Gibbons to DesBarres, dated London 30th November 1786, (App. A. 168) viz.

"I beg you will furnish yourself with ample Evidence to controvert the most violent and interesting Opposition that can be conceived, in which Envy, Malice, Falschhood and perhaps Perjury may be expected; but, as I know you despise a Victory over a weak Enemy, you have now an opportunity of obtaining one worthy of yourself, which will not only, I trust, place your Reputation and Honour in that Point of View in which you would wish them to appear; but also render a most important Service to the King's Authority and the Laws and Constitution of this Kingdom."

Balance of £.7364 7s. 2d. due to DesBarres for Disbursements incurred, antecedent to the 25th March 1786 (92): But Payment not being issued, DesBarres Bills remained unliquidated—whereupon his Agent remonstrated to the Lords of the Treasury on the accumulating Charges by Damages, noting, protesting and Interest thereon, which, then, were at the Rate of £.840 *per Annum* (93); And, also submitted (without Efficacy) for their Lordship's Consideration the very critical State into which he thereby would be placed on his Arrival in England (94).

On the 19th July 1787, DesBarres received a Dispatch from Lord Sydney dated 30th November 1786, containing various vague Imputations and *unmerited Inferences*, and signifying that—Upon these Accounts, His Majesty had thought fit that his Lordship should signify to him His Royal Commands for his return to England, as soon as possible to give an Account of his Proceedings, leaving the Island in the Charge of the senior Councillor, until such time as he might return thither, or that His Majesty might determine upon naming a successor to him (95). And, by the same Conveyance, was also received from his Lordship the following Letter, dated: "Whitehall, 5th April

(92) Vide Report, dated 16th September 1786, to the Lords of His Majesty's Treasury, also App. C. 459.

(93) Vide, Letter from Mr. Roberts to the Secretary of the Treasury (Mr. Steele) dated 17th January 1787, (App. A. 169) viz.

"THE heavy Charges attendant on Lieutenant Governor DesBarres's Bills, incurred by forming a Settlement on Cape Breton, are so great, that I think it my Duty as his Agent to request the Favour of you to represent to the Lords of His Majesty's Treasury, that those Bills now unpaid amount to £.8384 4s. 6d. and the Damages, by noting, protesting and Interest, are the Rate of £.840 *per Annum*, (or £.2 10s.—*per day*) which have made, and are making, such Additions to the original Sums the Bill were for, that are truly alarming. It will be of great Relief to my Principal, if I am enabled to put a Stop to any Part of so ruinous an Expence."

(94) Letter from Mr. Roberts to DesBarres dated London, 28th November 1786, (App. A. 176) viz.

"I have not found occasion to trouble you with any Representations on the Subject of your Concerns at Whitehall for some time past, having nothing to communicate from that Quarter that would prove in the least degree agreeable to you; but, the Leander Man of War being to sail in a few Days for Halifax and being probably the last Opportunity that will offer to convey any thing until Spring across the Atlantic, I shall therefore inform you that no more Money has been issued, or is likely to issue, from Treasury on your Account, since what I informed you of in my Letter of the 1st of February last.

"I am informed that it is intended to order the Relief (Captain Gravois) to proceed to Cape Breton for the purpose of conveying you home to render a personal Account of your Proceedings. I submit to your serious Consideration, the propriety of your setting foot in England before the vast Paper you have in Circulation is in some measure liquidated, for some of the Persons who hold your Bills have been so insulting and troublesome to me, as to compel me to be at Home as little as possible, and I am sure they will not hesitate being more troublesome to you, when in their Power. This, I have made known more than once to Office, where what I apprehend is admitted as likely to happen and the disagreeableness of your Situation greatly lamented; therefore, assure yourself, not a moment shall be lost in making known to you when Effects are put into my Hands to enable me to clear off some of the heavy incumbrances that will certainly prove very troublesome to you, when on the Spot."

(95) LORD SYDNEY's Dispatch of the 30th November 1786, (App. A. 40) viz.

"YOUR Letter of the 28th February came to hand a few days before the Arrival of Chief Justice Gibbons, and by him were delivered to me your Dispatches of the 7th June, with the Minutes of the Council of the Island of Cape Breton, and sundry Vouchers and other Papers intended to justify the Expences you have incurred, as well as to elucidate certain Transactions which have taken Place since your Arrival upon that Island [a]. I have likewise received, by another Conveyance, your Letter of the 24th July giving an Account of your Proceedings in consequence of my Dispatches to you of the 19th April [b], enclosing at the same time a Statement of your Services [c] and explaining the Difficulties you have had to encounter, situated as you have been, with regard to the Military Powers, in providing for the Accommodation of the Troops and the Subsistence of His Majesty's Subjects settled upon that Island, who, you represent, without your Assistance, must have perished for want of Food [d].

"I have laid all these Letters and Papers before the King, and have faithfully reported to His Majesty the Communications which have been made to me by the Chief Justice, upon the several Subjects wherein you imagined some Explanation might be necessary.

"His Majesty constantly inclined to View the Conduct of his Servants in the most favorable Light, always feels great concern when their Proceedings do not appear to Him to merit Commendation.

"His Majesty has in various Instances observed a Disposition in you to encourage a disunion of Affection between his Subjects residing on the Island of Cape Breton and those in the Province of Nova Scotia [e]. From whatever Cause your Suspicions of the Jealousy of the latter of the encreasing Importance of Cape Breton may have been entertained, your Proceedings upon these Occasions appear to me injudicious, and likely in their consequences to be productive of very mischievous Effects [f].

"I wish that the Proceedings I have just taken notice of were the only Causes for Dissatisfaction [g], but from the Measures which have been pursued for depriving nearly the whole of the Civil Officers of the Island of their Employments, and the constant Disputes and disagreements which have taken place between you and the Military [h], and the Complaints which have in consequence been exhibited against you [i], many doubts have been entertained of the Rectitude of your Conduct [j]; or at least of your Prudence and Discretion, which neither the Reasoning contained in your Dispatches, or the Information given by the Chief Justice, are sufficient to remove [k]; upon these Accounts, His Majesty has thought it fit that I should signify to you His Royal Commands for your return to England as soon as possible, to give an Account of your Proceedings, which you will do upon receipt of this Dispatch, leaving the Island in the Charge of the Senior Councillor, until such time as you may return thither, or that His Majesty may determine upon naming a Successor to you [l].

"With regard to the Accounts of Expences incurred by you for the purchase of Provisions and for other purposes, the Vouchers for which your Secretary produced; my Opinion upon the several Expenditures has been conveyed to the Lords of the Treasury; who will of course cause their Determination thereupon to be communicated to you [m]. I was sorry to take notice, upon an Examination of these Accounts, that Charges were inserted of a Nature which, consistently with your Duty to the Public, you ought to have discountenanced, instead of promoting [n], and that Purchases of Pro-

" 1787. I have received the King's Commands to acquaint you, that His Majesty has been pleased to appoint Lieutenant Colonel Macarmick to act as Lieutenant Governor of Cape Breton, during your Absence: That Officer will very shortly proceed thither in order to relieve the Person into whose hands the Charge of the Island may fall upon your Departure from thence. I am, &c.
 " *Lieut. Governor DesBarres.*"

" SYDNEY."

Lieutenant Colonel Macarmick arriving at Sydney on the 11th of October (1787) farther explained the Conditions and particular circumstances of his *temporary Appointment* and Mission (96).

"visions, and other Supplies, were made by you for the use of Persons, whose Situations did not entitle them to such an Indulgence, whereby a considerable Expence has been unnecessarily incurred [g].

" *Lieut. Governor DesBarres.*"

" SYDNEY."

THE Sentiments which Lord Sydney's Candour and Goodness of Heart inspire, induce a strong Belief that his Lordship had not adverted to the Inconsistencies contained in this his Dispatch, and which perhaps, whether from Pressure of more urgent Affairs or otherwise, he might even not have had leisure to peruse; yet as it bears the Marks of his Lordship's sanction, it is incumbent to adduce some Elucidation thereupon, which imperious Duty prompts in Defence of injured Honour.

[a] Great part of the Papers alluded to were solemn Documents and Proofs, which, if they had been duly considered, not only could not have failed to justify the Expences incurred and elucidate the Transactions which had taken place; but must also have induced equitable Payment and resulting Justice in all other Points.

[b] Vide Page 42 to 46 also App. B. 48.

[c] C. 449.

[d] Vide Minutes of the Council, Memorials, Addresses of the Inhabitants, &c: App. C. 468, 469, 470, &c:

[e] This Imputation is, as unmerited, as it is abhorrent. The imputed Disposition never existed; and therefore could not possibly have been observed. The Idea of it seems to have originated, from the too successful Attempts practised on the Public Offices, which indeed, in this and other Instances, if it were permitted to use Lord Sydney's expression, might be said to have disunited his Lordship's generous Nature, from his Impartiality and Justice in the consideration and Treatment of DesBarres Disposition, Proceedings and Conduct.

[f] As Lord Sydney had in his possession ample Proofs to have satisfied himself with respect to the prevailing Temper alluded to in Nova Scotia. It is not easy to be conceived, upon what ground the Proceedings thereupon (had his Lordship been pleased to consider them) might have appeared injudicious and likely in their consequences to be productive of very mischievous Effects. However, when Lord Sydney shall be pleased to specify any thereof of such tendency, it will be incumbent on DesBarres to refute his Lordship's Charges, Evidence, and Inferences.

[g] The Dissatisfaction alluded to is seriously felt and lamented; but it certainly was not founded on any existing just Cause.

[h] No Person had been deprived of any Salary or Official Emoluments: not even had Messrs. Hurd, Uncle and Cuyler (who were the only Officers suspended from acting in their respective offices until His Majesty's Royal Pleasure should be known on their Case) been deprived thereof. The Interests and Honour of His Majesty's Service absolutely dictated the Measure which was pursued (Page 37—41). They stood impeached for Official Misconduct and Misdemeanors. They were restored without Enquiry.

[i] The ample Evidence in Lord Sydney's Office might have induced to form an Opinion on this head, different from that which his Lordship seemed, here, disposed to entertain (Vide Occurrences &c. &c.).

[k] DesBarres was unacquainted with the Complaints. It was nearly a year after the Date of this Dispatch, when he received the Chief Justice's Intimation of them and that a Communication thereof had

been denied to him—and which Mr. Nepean had promised to transmit who, however, did not do so, although it is the practiced, and invariable Rule of Office, to transmit to Governors abroad Official Copies of all Complaints received against them; either, in order to their immediate Justification, or to enable them to collect the necessary Evidence against a future Trial.

[l] Lord Sydney having been pleased to adopt the mentioned Charges against DesBarres and to declare that many Doubts were entertained, of the Rectitude of his Conduct, it, thereupon, became his Lordship's indispensable Duty in the view of the Justice due to the Public to have brought Matters to proper Investigation and Determination.

[m] Under the then existing Circumstances, it were not natural to have expected that the Reasoning contained in DesBarres' Dispatches or the Information given by the Chief Justice, which had been treated with unmerited Inattention, would prove sufficient to remove Doubts most arbitrarily entertained on grounds, the irrefragable Proofs of the falsity and absurdity of which were in the actual possession of the Secretary of State's Office.

[n] DesBarres had been informed that, on his Departure from Cape Breton, he was not to be superseded (page 49). His Majesty's Royal Commands now signified that he should come to England for the express purpose of giving an Account of his Proceedings. The Island was to be left in the Charge of the Senior Councillor until such time as he might return thither; or that His Majesty might [in the Event he should, upon fair Enquiry, be found guilty] determine upon naming a Successor to him.

The only Reason then, and which is clearly and uncontrovertibly specified, for his being ordered to come to England, was, to justify his Official Proceedings and Conduct, represented or conceived, to have been improper or criminal. This is farther evident, from a preceding Paragraph of this Dispatch, viz. "His Majesty, constantly inclined to view the Conduct of His Servants in the most favourable light, always feels great Concern when their Proceedings do not appear to Him to merit Commendation." This is the declared sole motive of the Measure.

[o] No Communication of such Determination was ever received. The Rule of Office, as well as Justice, required its Transmittion.

[p] The Foundation and the Justice of this vague Imputation is positively denied.

[q] On this metaphorical Construction of DesBarres's Proceedings, it is necessary to declare that the Exigencies of the Service had been the sole motive of the Purchases alluded to. It is true he conceived that His Majesty's subjects indiscriminately had a Claim to such means of Assistance as they could not by any means procure and appeared absolutely indispensable for their Preservation, and he had supplied the same to them accordingly—to some, upon their obligation of thereafter replacing the like into the Public Stores, and to the more indigent Classes on Condition of furnishing their Labour in the Public Works for the Value. No Charge whatever has accrued on the Public therefrom. He has debited himself with loss accrued in consequence of this Measure.

(96) Lieutenant Colonel Macarmick informed that he was Member for the Borough of Truro, and had suddenly been sent for to the Secretary of State's Office; where he was asked whether he would like to be a Governor, as DesBarres had been ordered Home from Cape Breton to answer Complaints, and his Return thither would depend on his Justification: that his going out would place him on the List of Governors for Promotion, and, in the event of DesBarres' Return to his Government, he would be better provided for, to which Propositions he (Mr. Macarmick) had agreed, &c. (Vide also App. B. 216 to 220, &c.)

ON the 13th. DesBarres embarked for Europe (97) and, on the 7th of December following, put into the Isle of Jersey. Considering the Predicament of his Bills and the Caution he had received in that respect (97) he felt the Necessity of taking Precautions for his Personal Security. Being called Home to answer Impeachments he conceived it to be incumbent on Government to have secured his Person in order to be brought to Trial, in the view of the Justice due to the Public, as well as to the Public Creditors and to himself. Upon the Secretary of State's Refusal of his Requisition for that purpose (99), he concerted means to land in secrecy on the Coast of England, and reached Whitehall on the 16th of April 1788.

Here, it was proposed and promised, in the Object of his Personal Security and of enabling him to recover what Portion he might of his Property attached and seized in consequence of the Measures of Government, (100) to proceed *firstly* into the Examination of the Accounts, which, it was declared, might be gone through in the Space of a Week or ten days, when he might receive the Balance due to him. Official Copies of the Complaints were to be furnished to him, immediately thereafter, and a minute Inquiry was to take place, into his Proceedings which would also be forthwith decided upon. He was in the mean time assured that he had not been superceded, as the Government of Cape Breton was given to him for specific Services of national Utility (101), that he had been called Home only, to explain his Proceedings (102), that this was expressed in Lord Sydney's Dispatches which clearly stated Mr. Macarmick's Appointment to be only temporary (103), that he, then, was the actual

(97) For that purpose, he was under the necessity of purchasing and fitting out a Brigantine (the Gaspey) there being no other means at that period to be found in the Colony for crossing the Atlantic. (App. C. 490, B. 154, 167.)

(98) Vide Page 50 Note 94.

(99) Letters to Lord Sydney, dated Isle of Jersey, 7th December 1787, and 17th Jan. 1788, (App. B. 66, 67.) viz.

" I AVAILED myself of the first Opportunity in my power, since the receipt of His Majesty's Pleasure contained in your Lordship's Dispatches of the 30th November 1786, and 5th April last, to conform thereto. I embarked at Sydney on the 13th of October, and, after an unfavourable Passage, came to Anchor at this Place this Morning. I must beg leave most humbly to pray your Lordship to consider the very untoward Situation in which I stand on account of the Demands made on me, for the Expences which I trust will, upon proper Investigation, appear to your Lordship and the Public to have been unavoidable on my Part, and that your Lordship will be pleased to give the necessary Orders for my Personal Safety against those Demands, until I shall have given such Explanation of the Public Expenditures, and of any other Proceedings of mine, as may be required. I shall wait here in great Anxiety of Mind, for your Lordship's Commands, &c.

" J. F. W. DESBARRES."

" I BEG your Lordship will permit me to repeat the Prayer, with which I presumed, on my Arrival at this Island to trouble you, and I pledge myself that, when your Lordship shall have a just Information of the Affairs and Transactions of Cape Breton, you will find that, the performing my absolute Duty as a faithful Servant of the Crown and the Public, has proved the sole Cause of the Difficulties and Hardships endured by me. I am, for these and other Reasons, and from your Lordship's Disposition to promote Justice, led to hope that you will be pleased to give the necessary Orders for my Personal Security, in order that I may be enabled to wait on your Lordship and furnish such Account and Explanation of Matters as may be judged proper to exact of me: And I beg leave, at the same time, to assure your Lordship, that it is, for that purport, and during the space of time requisite therefore, only, that I wish to be allowed the Indulgence of such Favour, &c.

" J. F. W. DESBARRES."

Letter to Mr. Nepean, dated Isle of Jersey, 17th Jan. 1788, (App. A. 68.) viz.

" I BEG you will have the goodness to move Lord Sydney for his Lordship's Answer to my Request. I am in great Anxiety and feel myself much hurt in the very mortifying Situation and Embarrassments into which, through my Zeal and faithful Services to His Majesty and the Public, I am suffered, in the Absence of Discrimination, to be involved, &c.

" J. F. W. DESBARRES."

Letter from Lord Sydney, dated Whitehall, 28th Jan. 1788. (Ap. A. 49.) viz.

" I HAVE been favored with your Letter of the 7th of last Month, acquainting me, that in pursuance of His Majesty's Commands, you had left the Island of Cape Breton, and had arrived at the Island of Jersey, and desiring that some Steps may be taken by me for securing your Personal Safety against certain Demands at present standing against you, until your Affairs have undergone an Investigation. I have considered the Purport of your Application, am sorry to acquaint you, that I cannot consistently with the usual Practice of Office, take any Steps of the Nature which you solicit; but recommend it to you to have recourse to the Holders of your Bills [a] who, I have no doubt, will grant you every reasonable Indulgence upon explaining to them the Occasion of your requesting it, &c.

" SYDNEY."

[a] This Advice was nugatory. It was felt in the Secretary of State's Office to be so, (App. A. 50.) as well as at the Treasury. (Page 50.)

(100) Vide: Writs of Attachments, &c. (App. C. 491 to 497.)

(101) Vide page 4; Also Letter from Lord Sydney, dated Froggnall, 4th Novem. 1792, (App. A. 78.) viz.

" WHEN I had the Honour of recommending you to His Majesty I had no other Motive than to assist an Officer who had served well and had not been sufficiently rewarded for his Services, and who was likely to be further useful in those Parts of His Majesty's Dominions to which he was to be sent."

(102) Vide: App. A. 40.

(103) Vide: App. A. 45.

Governor of Cape Breton that it was so stipulated with Mr. Macarmick, and he might rely on Justice being done to him in every Point: That, as there were unfavourable Impressions and a violent Prejudice at the Treasury against him, the Measure of calling him Home had been considered to be the best Means for saving him from suffering by their arbitrary operation.

IN respect to the Accounts of the Public Expenditures incurred for the Support of the Colony: The Vouchers had been regularly transmitted with the Accounts: Subsequently *Duplicates* thereof had been sent, and DesBarres had in his possession a *Triplicate* Set. It being suggested, that as several of the Vouchers belonging to the transmitted Sets were missing (it was at the same time acknowledged that they might have been mislaid or lost in their progress through the Offices) if he gave in his Triplicates or instantly completed One of the said Sets, it might greatly conduce to accelerate the Settlement of the Accounts: And accordingly, he completed one of the mentioned Sets of Vouchers.

The Impression of the Calumnies, which had been received into the Offices, had prevented the natural course of their Examination and rendered it not only tedious, but very perplexed and inconceivably painful. Imputations and Facts, neither true nor relevant, founded on a perfect misunderstanding and misstatement of his Proceedings had been inserted in the Reports to the Treasury, such as—*That Lord Sydney could not recommend the Payment of Charges on the Public for Troops levied without the previous Sanction of Parliament—Or for an Armament to invade an Island belonging to a Sovereign in Amity with His Majesty, &c.* (104), of which it were as impossible to have formed any

(104) The Grounds of these Imputations were: That,—In pursuance of the following Royal Instructions: viz. “You shall take care that all Planters, Inhabitants and Christian Servants, be enlisted under good Officers, and when, and as often, as shall be thought fit, mustered and trained; whereby they may be in a better Readiness for the Defence of Our Island under your Government, &c.” DesBarres had formed a Plan for establishing a Militia, adapted to the Situation and Circumstances of the Island of Cape Breton and congenial to the Disposition of its Inhabitants, which he conceived, might, on emergent Occasions, prove the more advantageous to its Protection, by having in each Militia Corps a Proportion of Men capable to act on Board of Vessels and Crafts as well as on shore, and intelligent for choosing and securing Posts and combining the means of its Defence. Towards the Execution of this Plan he had appointed Two Companies, which were chiefly composed of disbanded Troops and Persons who had served His Majesty at Sea, and he had approved of their regular Conduct and Discipline and expressed the sanguine hopes he entertained from the Progress of the Plan; But no Charges whatever had been made, or were ever intended to be made, on the Public therefor.

With respect to the alledged Armament and Expences thereof, the Truth is, that—In consequence of a Representation and the following Proceedings Resolutions and Advice of the Colonial Council thereupon, viz.

“AT A COUNCIL holden at the Governor's House on the Island of Cape Breton, the 20th Day of August 1785. PRESENT: His Excellency the Governor, the Honorable Richard Gibbons, Thomas Moncrieffe, James Edward Boisseau, Benjamin Lovel, Richard Sweet.

“HIS Excellency the Governor having laid before the Board the Petition of Mr. Edward Kavanaugh, and the Depositions of Michael Mulcahy and John Smith respecting a Piracy committed by Martin Aristo, Edward Seal, Lawrence Kavanaugh and one Evan, in running away with a Fishing Vessel (called the Harriot) belonging to the said Edward Kavanaugh, requesting the Opinion and Advice of this Board thereupon: And the Board having taken the same into Consideration, and having enquired into the Circumstances and Nature of the Case, RESOLVED, That it is the Opinion of this Board, that there is great Reason to believe that the said Pirates have carried the said Vessel to the Islands of Miquelon or St. Pierre, and have themselves taken refuge there, and that it is the humble OPINION and ADVICE of this Board, that His Excellency the Governor ought to dispatch a proper Vessel to the Governor or Commandant of said Islands, to demand the restoration of the said Vessel and delivery up of the said Offenders to be dealt with according to Law.”

Copy of DesBarres' Dispatch, dated Island of Cape Breton, Sydney 21st August, 1785, (App. C. 514.) viz.

“IN consequence of the Representation, and Proofs adduced by Edward Kavanaugh, a Subject of the King my Master, and an Inhabitant of the Island of Cape Breton, carrying on the Fishery, and engaged in an extensive Branch of Commerce, which Proofs have been verified by a Deposition taken before the Chief Justice of this Island and its Dependencies within my Government, stating that on or about the Thirty-first Day of July last, at the Port of Brasford, a Piracy was committed, by Martin Aristo (the Master) and part of the Crew of a Fishing Vessel belonging to Mr. Kavanaugh, ordered by him to Fish, upon the Coast of this Island and Isles thereupon Dependant, by running away with the said Vessel, her Stores and Provisions, and, from a concurrence of circumstances and reasons, it is believed that those Persons, with that Vessel have taken refuge in the Island or Territories of His most Christian Majesty under your Command.

“I think it my indispensable Duty to the King my Master, to request your Excellency will according to the Law of Nations, cause search to be made within the Limits of your Authority for those Pirates, and the Vessel with which they have run away, and that the Vessel and Offenders, or such of them as shall be found, within the precinct of your Jurisdiction, may be delivered up to the Honourable James Edward Boisseau, a Member of His Majesty's Council, Commissioner for apprehending and trying Piracies, and Felonies in the Admiralty Jurisdiction, and Commissary of Musters of this Island and its Dependencies, that they may be dealt with, and disposed of, according to Law. This Gentleman, who will have the Honor to deliver this Letter to your Excellency, is by me charged with the fullest Commission, and Instructions to co-operate and treat with your Excellency upon this Subject. I have Honor to be, &c.

To His Excellency Baron de l'Esperance, Governor, or to the Officer commanding His most Christian Majesty's Forces on the Island of St. Peter's and Miquelon.

“J. F. W. DESBARRES.”

Orders given by DesBarres (App. C. 515.) viz:

“YOU are hereby required and directed forthwith to embark on Board of the Schooner Sydney, hired into the Service of this Government and proceed without loss of Time to the Islands of St. Peter and Miquelon, and deliver my dispatches herewith as directed, making all possible enquiry for the discovery of Martin Aristo and his Accomplices and all others who may have been concerned in piratically running away with the Harriot: all whom you are to secure, bring, and deliver into safe Custody within this Government. Given under my Hand, at Sydney this 21st Day of August 1785.

To the Hon. James Edward Boisseau, &c.

“J. F. W. DESBARRES.”

Idea, as of the most extravagant Fictions of phantastic Poets. Hence, though the Sums, recommended in those Reports to be paid, had not been issued; yet he was arbitrarily reproached with having exorbitantly lavished the Public Money; when, in fact, the whole Amount, paid to him by Government towards defraying the Charges of establishing and supporting the Colony, was under £.6000, (105).

In this Interval, he remained secluded in a Sanctuary under incessant perturbation from the Impatience of the clamorous Public Creditors, refraining from the Intercourse of his Friends until the promised Inquiry should remove the Stigma of the vague Imputations and Complaints, for which he was conscious there existed no Ground whatever and of the particulars of which (however) he could not obtain any Official Knowledge. It was in this gloomy Retirement, that, the gross *Fabrication* and *Forgery* addressed to Lord Sydney, formally delivered by Mr. Hurd, and received into the Secretary of State's Office, a Communication of which had been refused to the Colonial Chief Justice, a Copy whereof had been promised to be, but had not been, transmitted to him, *and which is referred to in his Lordship's Dispatch of the 30th November 1786*, was brought to him by a Gentleman in whose hands Mr. Hurd had put it, for a calumnious purpose (106).

Upon this Discovery he urged with redoubled ardour for the promised Copies of the Complaints. They were not to be found! The Under Secretary, pointing at a Desk in the Office, said, if he (DesBarres) could tell what Clerk (107), or Messenger had taken the same from thence he should immediately be dismissed. The Reply was, that they had been put into Circulation through Mr. Hurd during the past two Years (108), and perhaps were at that very Instant circulating. Hereupon the Under Secretary of State observed that it might only be a Copy, which Mr. Hurd had from Colonel Yorke.

DesBarres being informed that Mr. Hurd was about to leave England, applied for his Detention until he should be confronted (109), and some Days afterwards received from the Under Secretary of State a verbal answer:—That Mr. Hurd would be detained; *But that he now must ruin Mr. Hurd, or Mr. Hurd must ruin him.*

LORD Sydney had appeared strongly prepossessed with prejudice against DesBarres's unexamined proceedings and Conduct (110). And although his Lordship had frequently declared his own liberal Disposition to do him impartial Justice (111); yet he was, all this time, suffering the most mortifying Disappointments from the Disposition and Delays in his Lordship's Office (112). Hav-

Having sent the Schooner Sydney (of 60 Tons, navigated by her Master and three Men) with a Dispatch to the French Governor of Miquelon and St. Pierre, to reclaim the said Vessel and Pirates, (should such be found within the Precinct of his Jurisdiction) it was thought advisable to send a Corporal and four Men in order, in case of said Offenders being apprehended, that the Schooner Sydney and her Crew might be protected against any Attempt on their part. If even the Corporal and four Men as applied for from the King's Troops at Cape Breton, had been obtained for that obvious purpose, no Expence whatever would have accrued on the Public therefor.

(105) Vide App. B. 152 to 157.

(106) See, Attested Copy of this atrocious Production, and the Observations and Declarations on Oath respecting it. (App. C. 365 to 368.)

(107) If the Under Secretary of State thought it allowable to suspect any of the Clerks to be capable of such Misdemeanor, he certainly was the only Judge on whom to affix his Suspicion.

(108) App. C. 366.

(109) Vide: DesBarres' Letter to Mr. Nepean, dated 14 August 1788, (App. B. 73.) viz.

"There being a Report that Mr. Hurd is about to leave the Kingdom, (whether upon Public or Private Business I know not) I cannot therefore but desire that you will signify immediately to Lord Sydney my most earnest Request that he be detained at all Events to be ready to appear, in order that I may confront the most gross and false Allegations which have come from him, or any others he may dare to bring forward."

(110) Vide: App. 28, 40, 46, 165, &c.

(111) Vide: App. 52, 53.

(112) Vide: App. 50 to 56, B. 69 to 80.

ing thereupon requested the favour of a personal Audience (113), an Interview took place at his Lordship's House. He laid open the state of the Affairs, his Proceedings, his Conduct, his impending Ruin in consequence of the Treatment thereof, and most earnestly entreated that his Lordship might be pleased no longer to procrastinate the promised Inquiry. Lord Sydney resolved that, he should in the first instance clear up the Objections to his Accounts at the Treasury, which, when done, his Lordship would recommend him to His Majesty for some Mark of the Royal Favour.

1789.

LORD Sydney had appointed a Day for investigating, and giving his Opinion on the Case, and his Lordship having required to know what his Expectations were, he humbly submitted his Claim, viz. *Reimbursement of his Advances and Compensation for the Losses he had sustained by the necessity; on the Failure of support from Government, of maintaining His Majesty's Colony with the means of his own Resources and Credit: Reparation of his Honour and Reputation as Lieutenant Governor:—And that Advancement of Rank in his Military Capacity which the Rule of the Service and the munificent Justice of His Majesty point out to be his Right in consideration of the Nature Merits and Seniority of his Services* (114); But no Investigation nor Decision took place, notwithstanding his Lordship's Appointment.

AT length, a Report upon the Account of the Expenditures for the Colony of Cape Breton being (in February 1789) transmitted from the Secretary of State's Office to the Lords of His Majesty's Treasury, DesBarres humbly submitted for their Lordships Consideration:—That it was then nearly three Years since the necessary Credits for performing the indispensable Duties of his Appointment had been suspended, and considerably more than two Years since he had been called Home to answer Charges, said to be preferred against him, in Justification of withholding the usual

(113) Letter from DesBarres to Lord Sydney, dated Spring Gardens, 19th December 1788, (App. A. 75) viz.

"YOUR Lordship had the Goodness some time since to take me by the Hand *en passant*, and to say, you had not time to speak to me: you cannot be insensible on Reflexion what severe and unmerited Mortification and Distress I have since suffered from the neglects of my repeated personal Applications at your Lordship's Office for the Examination into my Conduct at Cape Breton, and the Ruin of my Property in Nova Scotia to answer the Demands of Creditors, which, I humbly conceive, are due by Government. My request therefore is, that your Lordship would follow up that friendly Notice by appointing any Day and Hour, when I may have the Honour of a private Conference with your Lordship at your own House.

"P. S. Among other Mortifications, your Lordship must be sensible, it is not the least that I cannot have the Honour of waiting on your Lordship, with Security, but on a Sunday."

(114) Letter from DesBarres to Lord Sydney, dated 31 Jan. 1789, (App. A. 82.) viz.

"THE intollerable Situation into which I am involved, compels me humbly to remind your Lordship, that I have long and unjustly endured a very severe degree of unmerited Distress, and that I still remain in the most painful suspense, waiting for the result of your Lordship's Pleasure and of the Hope, which I have been led to entertain on the faith of your Promises, that Justice would be done to me, &c."

Letter from DesBarres to Lord Sydney, dated 3d February 1789, (App. A. 83) viz.

"MAY I not reasonably hope, that I shall not be considered by your Lordship as disrespectfully importunate, when I recount that I have been ten Months in England under the Terror of suffering the Ignominy and Distress, even of a Goal, and my private Fortune and Personal Estates taken from me by Executions, whilst every One of those Demands which thus distress me, I am bold to say, ought in Justice to have been satisfied by Government, as they arose from my positive Duty in the Execution of that Trust and Station with which my Sovereign had honoured me. And, what is to me most valuable, my Honour and Reputation have been charged and invidiously represented: Still, at this Day I remain without the smallest Intimation of your Lordship's Sentiments concerning my Character or Circumstances, although I had the strongest Assurances that every particular of my Situation should be attended to with celerity, and a Period of Determination has frequently been affixed many months ago, and, as frequently put off.

"On the 27th of December last, your Lordship was pleased to desire me to mention, what my Pretensions were, and appointed the Tuesday following, when your Lordship would more fully investigate my Statements and the Matters I had adduced, and honour me with your Sentiments on my case. I have been in daily Attendance ever since, without being favoured with this honourable Opportunity.

"Far from presuming on my Abilities as an Officer; yet, tenacious of my Honour and Integrity, my Expectations must be obvious, and such as conscious Rectitude justifies my Claim to, and which, if refused to my humble Request, I shall be warranted to demand—a full Reinstatement of my Losses sustained in my private Fortune, from a Procrastination of that Support which my Station and Duty gave me a just and immediate Right to expect—a full and complete Reparation of my Honour and Reputation as an Officer and Lieutenant Governor, both of which have been grossly insulted by false Representations and malicious Aspersions—and that Advancement of Rank in my Military Capacity, which the Order of the Service points out to be my Right.

"Devoted in Deference and Respect to your Lordship, believe me, My Lord, far from presuming to dictate or point out any thing. Nevertheless, if your Lordship's favourable Disposition meets and approves of my Pretensions, two Ways, among others, occur, not doubting of your Lordship's Justice in making a proper Election. The One, to direct a Public Inquiry into every Part of my Conduct, and, if necessary, from the first Day of my being honored with a Commission in His Majesty's service to the present Moment. The Other Way, should it be deemed unnecessary, or perhaps unexpedient, to enter into a Discussion so public, and involving so many other Characters, against whom I declare myself free from every kind of unworthy Resentment, or wish to bring under Censure farther than self-justification should compel me, as Information has led me to think and believe that I am not superfluous, is that of my being honourably returned to my Government with unequivocal Powers and Instructions, as a Testimony to the World that I am not undeserving of that Confidence His Majesty has honoured me with, and that I have yet the particular Happiness of your Lordship's Approbation, which it would be my chief Study and greatest Pleasure to cultivate through life, &c.

"To the Right Hon. Lord Sydney."

"J. F. W. DESBARRES."

Assistance afforded to Others in similar Situations:—That, in consequence thereof, heavy Damages had accrued from the protests and current Interests on his Bills, which must continue to accumulate until the Justice of their Lordships might enable him to put a stop to their ruinous Progress—the Public Creditors having levied Executions on, and made Seizure of his, Estate and Property (115). The Secretary of the Treasury observed to DesBarres thereupon, that a Mode for arranging the Business had occurred to him, which he would suggest to Mr. Pitt. However, after long and constant Attendance, no Result was obtained (116.)

IN this period, DesBarres, being informed that Mr. Hurd, (whose Detention he had in the preceeding Month of August moved for in order to be confronted) was then actually under Orders for going abroad, pressinglly reiterated his Instances for the Justice due to him (117).

ON the 22d. Day of March Mr. Hurd being questioned upon the Complaints (which he had formally delivered in 1786 into the Office under his own and ten other Subscriptions) confessed in the Presence of His Majesty's Secretary of State, of the two Under Secretaries of State, and of DesBarres, that he could not support any of the Charges therein. DesBarres thereupon pointed out, among the *forged Subscriptions* the Name of a Person, who (then) happened to be in London and had declared that he would have his Hand cut off, rather than put it to such an abominable Piece of Paper, and proposed to bring him before Lord Sydney; but his Lordship declined to see him.

DesBarres took leave to observe, that, notwithstanding such glaring Marks of the Atrocity of the *Fabrication produced by Mr. Hurd*, and the irrefragable Proofs as well in Lord Sydney's Office as in his own Possession of the falsity of the Allegations contained therein (118), it appeared nevertheless requisite, that he should be tried thereupon and upon any and all Complaints whatever which might be adduced, that he conceived himself to be entitled to an Opportunity of Justification against Calumnies manifested to the world in the most injurious and nefarious manner; and, besides, as Lord Sydney had thus grossly been deceived, it were also highly requisite, for his Lordship's own Credit, to bring forward the Authors of the Imposition.

Having adverted to the Assurances given to him, that he still continued to be *the* Lieutenant Governor of Cape Breton, One of the Under Secretaries observed that his Lordship knew it had been so agreed and that Mr. Macarmick had been stipulated with accordingly. He persisted to claim the promised Copies of the Complaints and a Trial. Lord Sydney said he would consider matters and determine thereon.

DESBARRES' assiduous Solicitations at the Treasury had only been answered with general Expressions of Regret at the Delays. It was said that Lord Sydney's Reports were so very vague and indecisive that the Office could not possibly proceed in the Matter, and that it were absolutely necessary it should undergo Mr. Pitt's own thorough Examination. DesBarres, thereupon, humbly requested a Communication of these Reports, or to be furnished with Extracts of the Objections alleged therein in order to explain and refute them. This indulgence was refused.

At an Interview appointed by Lord Sydney (on the 1st June 1789) having mentioned the Difficulties and expostulated with his Lordship on the irreparable Mischiefs (119), which would

(115) App. B. 84.

(116) App. B. 86.

(117) Letter from DesBarres to Lord Sydney, dated 6th March, 1789, (App. B. 85) viz.

"IT is with a painful Reluctance, that I must again importune your Lordship on a Subject, which no Consideration in Life can induce me to neglect, I have long looked up to your Lordship, with a confident Hope that some Measure would have been taken, whereby I might have justified to the World the Integrity and Honour of my Conduct.—I am informed that Mr. Hurd, who has shewn much Forwardness to injure my Honour, Reputation and Fortune, and who has been long detained to support Charges against me, is now on the point of going abroad under Orders. It is essential to the End of Justice that he be confronted upon the Assertions he has made. Justification is the pure Motive of this my Application to your Lordship.—Again, I supplicate your Lordship not to suffer my Inquietude to continue; but to favour me with an explicit Relief—either, by judicially confronting me with my Accusers, or signifying your Lordship's Disbelief of the Accusations:—And I further entreat your Lordship will not condemn, as presumptuous, my Expectations of an Official Answer in a Concern so inestimable and so seriously interesting to, &c.

"To the Right Hon. Lord Sydney."

"J. F. W. DESBARRES."

(118) App. 365 to 368.

(119) Numerous Accounts had in the mean time been received of the Proceedings at Cape Breton since DesBarres' Departure from thence, which, in the View of Justice and the Public Interests as well as in order to prevent the Decline of

arise from delaying the serious Consideration, and a just Arrangement, of the Affairs of Cape Breton, his Lordship said he would that very Day make Inquiries at the Office and send to the Treasury respecting the Business. On DesBarres requesting to know when he should attend for the result, his Lordship replied that he would send to him within four Days. In this Interval, however Lord Sydney quitted the Office of Secretary of State, and did not send to him.

the Colony into Annihilation, highly required the serious Consideration of Government and to be immediately repressed. Among these, was a Representation addressed to Lord Sydney on the 1st of March, 1789, by One of the oppressed Settlers of the Colony, who pledged himself to his Lordship to verify the Facts asserted therein. He gave a Copy thereof to DesBarres, of which the following is only an Extract. (App. B. 216.) viz.

" DURING your Lordship's Administration, and under your particular Auspices, the Island of Cape Breton was erected into a distinct Government: Not doubting of your Lordship's highest satisfaction, in giving birth to an Establishment more beneficial and permanently advantageous to Great Britain, than the brilliant Conquests of other Ministers; and following the general Invitation, I went to that Country with the most sanguine Hopes of witnessing the rapid Progress of those National Advantages to my Country, and participating in those individual Benefits I had prefigured to myself and to a great Number of my Acquaintance, whose speculative Views were directed to that Settlement from my encouraging Description:

" Hitherto, my Lord, I am mortified to own, that my Expectations have been greatly disappointed; although I cannot admit that they were ill-founded, or that the Island which gave them birth is in any Degree whatever deteriorated: And, were not my Circumstances involved in the Issue of its Prosperity, it might appear officious in me to attempt any Investigation of those Causes from which I conceive that the general as well as private Disappointment arise: Such unavoidably tending to a Description of the Conduct of Men, usually deemed the best Evidence of their Principles and Dispositions, I shall confine my Observations to pointed Facts, which my own Faculties have witnessed, and which I can maintain. But, should I deviate into the Path of Conjecture, and, from Reports alone, pretend to draw Conclusions positive, I will own myself subject and liable to Error.—Perhaps, to this human Weakness, may in a great Degree be attributed the present and forbidding Prospects of that Island; for, scarcely seems the structure to have begun, when invidious, and I believe designing, Rumours laboured to effect its Destruction, and which to every Appearance have too well succeeded:

" Suffering me to digress and, out of many such, to select only One Instance or Two of the Prevalence of this Spirit of Detraction and how often its Foundation is laid in Falshood, I shall beg leave to mention that, in the Spring 1787, there was published in One of the Papers a very genuine Description of this New Government, its Natural Advantages and Properties pointed out and deservedly extolled: The Author next describes the Lieutenant Governor and his Administration: He then draws the Characters of several Gentlemen in that Province; but with scurrilous Wit and Scandal, traducing the Whole. The Production was sought after with Avidity, at Home, and seemingly read with Pleasure: At Sydney, it was received with Raptures by those who had confederated to oppose the Lieutenant Governor, or combined to accuse him. The Quarrels between two Knaves brought me to the Knowledge of them. The One, the identical Author alluded to is a Man, my Lord, who had never been in any Part of America—had never seen the Lieutenant Governor and a perfect Stranger to his History—who never knew the Complexions, Fortunes, Situations or most distant Connections, of any One Person he had thus slandered in a Style of such Confidence and seeming perfect Knowledge. This Man is an Author, possessing the Powers of strong and insinuating Language; but, in Principles, he is a very Profligate whose Depravity and Need would sway him, for the meanest Bribe, to undertake to calumniate a Judge and vindicate a Thief—Nor has the present Ministry; nor even Mr. Nepean his Friend, escaped the venom of his public Slander: And the Other, the corrupting unqualified Wretch who furnished him with the Outlines, is as despicable a Character as the Author.

" The Surveyor, singularly indulged to remain at Home, although the Exercise of his Duty is evidently one of the most necessary Functions in a New Settlement; yet, when he does arrive, it seems not with a view to perform any Operation of his Office—having neither Books, Instruments nor the smallest necessary Apparatus for that purpose; but, with great Diligence, applies himself and, in less than a Week, acquires more Knowledge and Information of the Lieutenant Governor's Malesadministration, than would be sufficient to punish and degrade all the Governors in His Majesty's Service, if DesBarres' single Crimes were shared among them. Those are carefully collected, and make a Catalogue of Criminating Changes in the form of a solemn and authentic Representation and Remonstrance officially addressed to your Lordship—and not only so: It has been invidiously distributed among DesBarres' Friends, like advertising Hand Bills: A Proceeding, which common Justice must condemn, as the Intention is obvious and of nefarious Import. I have seen the Production and the Names alleged to accompany it; but, as every sense of Honour and Rectitude and Sacredness of Character and Reputation, claim a full Investigation of the Deed and your Lordship's peculiar Protection, I shall reserve my Sentiments of this Production until such shall take place.

" Under what Restrictions of Economy the Establishment was to be carried on, it is not for humble Subjects to know. But common Capacity must readily conceive an impossibility in the Mother Country, to establish Colonies without a considerable Expence: Yet, if I am well informed, what has hitherto been incurred for this (although yet in the very expensive State of Non Age) is very far short of the Estimate proposed before it was begun: Nevertheless, it would be an easy matter to prove that a much larger Expenditure would be justifiable to the Nation in bringing it forward, whilst Fisheries, Commerce and Navigation are understood to be the principal Supporters of our Empire; And add to these eminent Advantages peculiarly belonging to this Island the Importance of its Position as a Safeguard to our remaining Colonies, apparently evident even from the slightest Inspection of the Map of that Country, should its former Owners, or their New Allies in the West, meditate at a future period any hostile Intentions to dispossess us of it—a political Probability, perhaps, neither futile nor extravagant.

" DesBarres, a Gentleman of approved Abilities, Rank, and long Service, whose Labours have contributed to the Benefit of this Country in a very conspicuous degree, and whose superior Knowledge of that Coast, Country, and its Resources, Malignity itself cannot depreciate: To him and his Friends was the Projection and Plan of the Establishment of Cape Breton generally ascribed; which, the Sovereign approving, was ordered into Execution—Nor could it thus be deemed strange, that His Majesty should bestow the first Tutelage of the Infant Colony to its Parent Projector, and, confiding in his Abilities, direct him with Powers adequate, to substantiate every Expectation.

" Subordinate Assistants are also appointed—although much limited in Number and with Salaries, barely adequate to the Support of their Existence in a Wilderness where every Necessary of Life remains to be imported from other Countries; much less to support the Dignity annexed to Station and Office. And, could I credit the superstitious Doctrine of Predestination, I should verily think that a Fatality had directed the Election of those Appointments. For, much I question, if exerted Pains and human Ingenuity could have formed a Collection, amongst all the Candidates in His Majesty's Dominions, of Persons more truly disqualified and unworthy.

" From the Beginning, another very formidable Enemy to the Prosperity of the Colony manifested itself in the political Disposition of a neighbouring Province, from which this Island had been detached: Troops to support the Government are sent from thence, and, though it might be unfair to surmise that they brought along with them, from their last Station, some latent Maxims of political Jealousy and Promptitude to thwart a Growth avowedly obnoxious to the Genius of Halifax; yet, many Instances of their Conduct but too plainly verified such Apprehension. Misunderstandings very soon arise, between the Lieutenant Governor and the Officer commanding the Troops; and it is reasonable to think that the Chiefs in Contention will take every Step for their justification and the support of their different Pretensions—But, as it is supposed that the Appeal has already been made to the Sovereign, it would be

" unpardonable Presumption in any Subject to decide upon the Merits or Demerits of the Disputants; yet, as the Contention produced much Evil and Distress to the Colony, it is natural in those who have suffered therefrom to expect that a Determination should be given, in order that His Majesty's Subjects in His Colonies should clearly understand the Distinctions made in them between the Civil and Military, Powers and Jurisdictions, and know which to obey.

" When the Heads of different Powers contend, inferior Characters generally incline, some to the One and some to the Other. The Conduct and Views of such it is allowable to describe, dutifully referring the Heads to their August Arbitrator. The Attorney General and four other Members of the Council withdraw themselves from the Board, leaving the Lieutenant Governor under the Necessity of calling in Others to fill their Vacant Seats, to perform the Business of Government. He has been therefore represented as having packed a Council of needy and consequently unprincipled Men for the purpose of Tyranny: Needy, no doubt, as are all the present Residents; but the Accusers cannot with Truth alledge that the New Members were not foremost in Estimation, Character, and comparative Circumstances, of all the other Settlers; And, it is a poor Triumph in the former to boast of a Superiority of any Endowment which is solely confined to Emoluments of Office and Pensions the abused Liberality of this Government, which they so badly requite.

" The Attorney General, the Provincial Secretary, the Garrison Chaplain, the Collector of the Customs and the Surveyor of Lands, become Auxiliary Chiefs to oppose and counteract indiscriminately every Measure of the Lieutenant Governor, and set the pernicious Example to the lower Orders. The Melancholy Effects of these Oppositions were greatly heightened and invigorated by Government allowing his Bills to return protested. In such a Situation, it was impossible for the Lieutenant Governor to extend that necessary Assistance and Energy of Power requisite for the Establishment of the New Settlement, and the Settlers were subjected to every kind of Disappointment. All were distracted and alarmed, and many of those (to whom were left any Abilities) quitted the Settlement the following Summer—flying from the Hazard of experiencing a Repetition of those Calamities the Winter ensuing: The few that remained, weak in themselves, and sunk in every Hope of Public Assistance from the accumulating Discredits of the Lieutenant Governor, could barely effect a scanty and precarious Subsistence; Such, therefore, could not improve the Face or Circumstances of the Country with any material Degree of prosperous Efficacy.

" Lieutenant Governor DesBarres is recalled and the Government of the Island is committed to another. The Election of Lieutenant Governor Macarmick, was I believe as unexpected as it was sudden: and the Recommendations on which his Appointment was founded would be immodest to investigate, whilst a proper Respect for His Majesty's Ministers obliges me to veil what his Audacity, if false, or unpardonable Indiscretion if true, has often suggested.

" Licences for vending, which formerly were Ten Shillings, are now Ten Pounds: Affixing the Seal of the Province, formerly Ten Shillings, is now Three Pounds Ten Shillings, and every Art practiced to urge the frequent necessity of its being affixed: Every Application, however trivial, must pass through the Private Secretary's Office, where the Applicant must pay a Fee of Ten Shillings: The Fees upon a Town Lot arise to nearly Ten Pounds: The Fees at the Customhouse for registering, Entries of Vessels, &c. are excessively beyond what is exacted at Halifax on the same Vessels; where there is a much greater Number of Officers claiming Fees, and where their enormity has been constantly complained against: The Coals are burthened with a Duty of Six Shillings and Sixpence *per Chaldron*, which must be paid down in Cash to the Governor before any Vessel is permitted to make an Entry to load, which, with other Imports, Detentions and Embarrassments, must in a short time deter Exporters from resorting to Sydney for that purpose.

" Those, My Lord, are a Part of the heavy Exactions extorted with undistinguished Rigour upon a Set of as impoverished and distressed Subjects, as are in His Majesty's Dominions: It is true their present Number is but small and daily diminishing. And here, My Lord, I cannot withhold an Offering, which a Mark of a liberal and generous Disposition claims in honest due to a Man who has been publicly charged with Avarice, Oppression and Extortion, in pledging myself to your Lordship that Lieutenant Governor DesBarres never exacted or received in Fees, or Perquisites to the gross Amount of Forty shillings during the whole period of his Administration of that Government. At Sydney, Rumour attributed his Recal to Two Causes: The *First*, to his having opposed the Military Pretensions: The *Second*, his Opposers ascribe to their Remonstrance and Complaints preferred against him and supported by their Friends in England—the Verity and plausibility of which your Lordship can determine. Although there were perhaps sufficient Reasons to induce his Successor not to run the Hazard of splitting on the same Rocks; but like an unskilful Pilot, *In Scyllam Charydimque qualubet incidit.*

" The Commanding Officer of the Troops, (Lieutenant Colonel Graham) is immediately invited and takes a Seat in the Council Board: Mr. Cuyler is chosen to another Seat, and his Office is executed by Deputy: The Reverend Mr. Lovel (a blaspheming and universally detested Character) is chosen for Private Secretary and made a Magistrate, the only One in Sydney not in Council: all the others being confined to the Members of that Board. Not even common Civility, much less Favor, is now shewn to any one not forward to join in execrating the Memory of the former Lieutenant Governor: even Neutrality of Expression under the present Lieutenant Governor and Council cannot shield from inveterate and rancorous Jealousy, and, where Habits of Decency refrain from opprobrious Language, Modesty meets with every Persecution and Insult that Ignorance and tyrannical Resentment can inflict. I am warranted to allege, and my Information points to, the Lieutenant Governor, Lieutenant Colonel Graham, the Attorney General, the Provincial Secretary and the Garrison Chaplain, have entered into a Species of Confederacy and, as far as Impiety can function, on Bible solemnly pledged themselves to stand or fall by one another—a Combination, portending the most nefarious and unwarrantable Purposes, and to which the Suspension of the Chief Justice and his Dismissal from the Council appears an evident Preparative.

" This Gentleman is, by all, allowed to be an honest Man and upright Judge, zealous Defender of the Rights and Dignity of his Sovereign, a faithful Guardian of the British Laws and Constitution and Protector of the Civil Rights of Men. Of his professional Abilities I am not able to judge; but the Lieutenant Governor, in the Record of his Suspension, allows them to be superiorly eminent, and which, as far I can judge of Language as well as from what I could ever learn, seems to be the only positive Crime on which his Suspension is founded [e] This Obstacle removed, a System of Government and Measures are adopted and pursued, evidently tending to depopulate the Province by Injustice and Oppression.

" Among the first Ordinances passed by the present Lieutenant Governor and Council is *One*, immediately to dispossess the greater Number of the Proprietors who had settled on Lands during DesBarres' Administration. As their Number, the Urgency of being immediately accommodated, and the Embarrassments which the inferior Officers of his Government obtruded upon him, rendered it impossible to expedite Assignments by Patents (Official Forms requiring a considerable length of Time) their Tenures were granted to them by *Licences of Occupation*, until their Patents should be made out—those, being for a Time in Effect the same as a Patent, and have been in all other Provinces considered and held as legal and irrevocable Tenures [d]. This Ordinance declares all such Tenures and Occupations illegal and void, and a Proclamation enjoins every one to petition for their Lands and take out Patents, or forfeit any Improvements or Rights they may pretend to in Lands not held by Patents: Thus, the old Settlers must petition *de novo* for what they have occupied and improved, and their Petitions are liable to be rejected, and their Buildings and four Years Labour lost to them. If their Petitions are granted, they must pay the Fees which are exacted, which three Fourths are not able to do; and consequently must forfeit their all, from inability to pay a Sum exorbitant and altogether unexpected [e].

" Among the Locations by Licences of Occupation granted by DesBarres, were some Farms to persons supposed for the Benefit of his own Children: These were improved by him at a considerable Expence, stocked with Cattle from his Estates in Nova Scotia, and Tenants placed on them for their Improvement: Soon after his Departure, his Successor, accompanied by the Attorney General and his Private Secretary, repair to Point Edward (one of the above Farms), and His Majesty's Attorney General in Form (according to the Ordinance) puts Lieutenant Governor Macarmick in as perfect Possession of DesBarres' Lands, Houses, Cattle, Crop, Stock and Implements, as if he had paid DesBarres the full Value for them the Day before: A Part of the Stock is immediately brought to Town for the Use of the Lieutenant Governor's House and Table, and the whole Rents and produce have ever since been exacted and received by His Excellency [d].

" With such a Precedent, the Provincial Secretary, whose Arrogance is above condescending to Forms, takes Possession of another man's land adjoining to his own, and swears that he will shoot the first Man that shall set his Foot on it as a Claimant—although the former Owners had expended near One hundred Pounds on its Improvement. The Usurpation of this unjust and violent Possessor is actually sanctioned by a Patent: Thus is he benefited by those Laws, which he as One of the enacting Legislators assisted in passing. This is the Person, who, in 1784, had the Effrontery of deceiving His Majesty's Ministers of pledging himself, as a Condition of his present Appointments, to introduce upwards of Six hundred Families (all his own Followers) into the Island of Cape Breton.

" Whether in Compliment, or to encourage Cultivating Settlers, it matters not: To Admiral Sawyer was granted a large Tract on the Harbour of Sydney. And to rid the Location of all Incumbrances, Twelve Old disbanded Soldiers, to whom DesBarres, in pursuance of His Majesty's Instructions, had assigned Lots, which they had built upon and occupied for nearly Four Years, are turned off without any Compensation or other Lands given to them elsewhere in lieu—a Circumstance of Injustice which I verily believe the Admiral is not acquainted with [e].

" Possessions of Land obtained from the Lieutenant Governor and Council by Halfpay Officers as the Bounty of His Majesty—although formally recorded, the Warrants of Survey issued and executed, and the Grantees have in the Improvement thereof laid out their Labour and Property, are not considered as Legal Tenures any longer than the Possessors shall meet the Approbation of every distinct Member of the said Council: On a Change of Disposition in any One of them, the Offender is privately accused in the Council and unanimously condemned: His Possessions and Improvements are taken from him, and perhaps the same Day, given to another—the Favourite of their Caprice: The Accusation is transmitted to His Majesty with the Proceedings of the Council, and the Sufferer is left, to Conjecture alone, to account for his Hardship and losses [f].

" Omitting many Instances of flagrant Partiality in granting or refusing Lands, I shall only observe and contrast Two. Captain Gravois, a Canadian Gentleman known to your Lordship through Lord Dorchester's Recommendation, meritorious in every respect and highly deserving for his long and faithful Services to Government as the most trusty and expert Pilot in all that Country, who commanded the Government Brig, Relief, appointed by Lieut. Governor DesBarres (a sufficient Cause of Jealousy and Dismissal, and which, even his Attentions to Lieut. Governor Macarmick and his Family whom he conveyed to Cape Breton could not remove) is very soon dismissed from his Station and Command, to make Room for a most unfit and worthless Recommendation of Lieut. Colonel Graham and the Reverend Mr. Lovel. Captain Gravois petitioned for Lands and a Situation to enable him, by his Industry, to maintain his numerous and respectable Family. This is denied to him upon Allegation of his being a French Papist, and, as such, not eligible to the Benefits of a British Subject. This Man is a valuable Member of the State, and whose Abilities in the Service of an Enemy may be very dangerous to our Possessions, is driven to seek his Bread and an Asylum amongst the French after Thirty Years Services under the British Government; whilst Mr. Patrick Rooney Nugent, a notorious and bigotted Irish Roman Catholic, is acting as Surveyor General and Captain of Militia, much in the Confidence of His Excellency, and to whom many Lots of Land have been given, which he has sold to Others: Nor can any inferior Pretenders to Lands have any reasonable Hope of succeeding without a previous Application to this Court Favourite, or to his Coadjutor, Mr. Phealan an Irish Priest. How Mr. Nugent is qualified, as a Crown Officer, to sign Deeds and Patents intended to convey a Legal Possession to a Protestant Grantee, I must submit to your Lordship's Determination.

" The Contrivance and Merit of this extraordinary Mode of governing and Legislation, is universally allowed to appertain to His Majesty's Attorney General, who, to prove himself equally able in all points, circumstances and emergencies, with equal facility devises Remedies in Honour as well as in Legislation. Amongst the first Professions of the New Lieutenant Governor was a perfect Disinterestedness and, far from imitating his Predecessor in engrossing Lands to himself, he would not (and pledged his Word and Honour) appropriate to himself One single Acre during his Residence as Governor. A Resolution so gallant and unusual commands Esteem, which all court and few after having obtained would wantonly forfeit. Nevertheless, the following Year, a very beautiful and advantageous Tract, which his Predecessor had located for a Township particularly adapted for the Fishery, as it comprehends an excellent Harbour and an extensive and commodious Beach for curing Fish: This fell under His Excellency's Notice with a Desire of becoming the Proprietor of it. But the word of Honour of the Delegate of Majesty has been given not to appropriate to himself any Lands! What is to be done? Nothing so easy! Four Gentlemen of Character no doubt, and Convenience evident, being properly prepared, Mr. Pitts, Mr. Storey, Mr. White and Reverend Mr. Lovel, distinctly petition His Excellency in Council for Lots of Five hundred Acres, which Four Lots (Two Thousand Acres) exactly take in this Tract and the whole of the Curing Beach. Their Petitions are received, and granted, Surveys returned, every preparatory Certificate produced, Patents to Each made out and the Seals affixed, the whole during the same Sitting of the Governor and Council, and these Four exalted Gentlemen in the same Hour assign over and execute a Deed in Free Gift of their several Estates to His Excellency the Hon. William Macarmick Esq. and his Heirs for ever. Thus is the Word and Honour of the Lieutenant Governor preserved according to Law from being disrespectfully questioned. By a similar Ingenuity, your Lordship may, in a very short period, discover that the greatest Part of His Majesty's Landed Property in this Province has been transferred to Five or Six of His unworthy Servants. To corroborate this Apprehension, the whole Island of *Boularderie*, situated between the two Entrances of *Bras d'or*, an Extent of upwards Twenty Miles and containing upwards of Fifty thousand Acres, has been granted to Lieutenant Colonel Graham and the Officers of the Forty Second Regiment, a Situation for Fishing Farming and Ship building the most eligible and advantageous in the whole Province. This very liberal Donation is in grateful Return for the extraordinary Assistance and Benefits which the Province has received from the Lieutenant Colonel as a Legislator, with an Account of which I shall beg leave to close my Address.

" To the Attorney General and Lieutenant Colonel Graham His Excellency appears to have resigned himself, his Powers, and Faculties. I shall not trouble your Lordship at present with any further Animadversions on the former, but confine my Observations on the Effects produced from the Dispositions of this Military Legislator. On a slight Rumour of a French War, this Counsellor strenuously recommended and advised that Martial Law should be immediately proclaimed in Sydney, which had very nearly taken effect. The Principal Motive, of which he had the Indiscretion to make too public, was, that he would have a fair Opportunity of chastising those S—, who had insulted his Friend Colonel Yorke, with the Bayonets of the 42d. Regiment. Many Murders, I believe, were prevented by the more judicious Interposition and superior Humanity and Wisdom of Chief Justice Gibbons: However a Militia Ordinance, which every Englishman must execrate was imposed, and which no doubt has been transmitted to your Lordship.

" Should any of the Inhabitants incur the Displeasure of any of the confederated Counsellors, the Lieutenant Colonel gives out in the Orders of the Regiment, that, if any of the Soldiers shall lay out any of his Money with any one thus proscribed, every such Offender shall be punished. Any of the Officers, who shall be discovered to visit or return any Civilities to the Chief Justice, or any other Gentleman, not in favour at Head Quarters and the Council, shall be sent into Coventry—a kind of combined Insult to drive an Officer out of the Regiment.

" It having been intimated to some Settlers by Patent under Lieutenant Governor DesBarres, that they should not enjoy, or hold peaceable Possession of their Land, and, they, conceiving such Threats to be ineffectual and persisting in their Pretensions of Right to the Lands granted to them, their Cows are hamstringed and their Sheep are shot; but this is performed in the Night, and the Perpetrators cannot be positively known, and it would be unjust to suspect, much more so to condemn, without Proof. This had often been threatened, in the hearing of many, by a particularly favoured Serjeant and some Soldiers. The Day preceeding the Perpetration, this Serjeant and Two Soldiers went to a Blacksmith's Shop and took from thence Two Regimental Swords, which had been left there for Repair; but had not been repaired and the Regiment never wore Swords in Sydney. Those Soldiers were seen returning to the Barracks between Two and Three o'Clock in the Morning. Between Six and Seven, they were found asleep in their Beds and the same Swords concealed underneath them and very bloody.

" The Lieutenant Colonel sent immediately to the Owners of the Cattle, requesting that they would commit to him the entire Management of discovering the Offenders, as he knew better how to make such amongst the Soldiers than they could pretend to.

" A Court of Officers is appointed to make inquiry, which lasted Three Days mostly in private, and produced nothing more than another Message from the Lieutenant Colonel, importing that a Sufficiency of Legal Proof could not be made out to fix the Crime upon any of his Soldiers, and therefore

" they must attribute the Offence to their Neighbours—an Inference indeed very improbable, exclusive that one of the Owners was the Reverend Mr. Coffet the Parochial Minister, a Man affectionately esteemed and revered; but Lieutenant Colonel Graham adds, that, if Mr. Coffet should still be inclined to think that any of his Soldiers are guilty, any Mr. Coffet shall chuse to pitch upon shall be given up to his Prosecution, but warns him to be very careful of the consequences of false Imprisonment; nor could the Commanding Officer be answerable to what Lengths an exasperated Soldiery might proceed in their Resentments, should any Attempt be made to entail unmerited Reproach and Scandal upon a Regiment—a caution sufficiently plain to convince any Man who had Hamstrings of his own that the Soldiers could not have been the Persons concerned in this Method of subduing the Refractory to a proper Obedience of their Superiors and Respect for the Laws.

" This, my Lord, is only an Abstract of what I could relate of the unworthy Policy and Conduct, which must speedily depopulate that Country, and deter Others from attempting to settle there, and which, I hope, will sufficiently point out to your Lordship, that, under such a System, no Patronage can ever succeed to render it prosperous or advantageous to the Mother Country. But, should your Lordship disapprove of any Alteration or Attempts to an Amendment, I shall be under the mortifying Necessity of relinquishing after Four Years Labour and Cost, every Hope and Prospect of establishing myself in that Province as a Settler, &c.

[a] App. C. 387 to 402.

[b] Vide Licence of Occupation issued in the Province of Nova Scotia (App. C. 499).

[c] The Authors of this iniquitous Ordinance, were known and there were sufficient Proofs in the Secretary of State's Office to have cautioned against the extremities to which any Portion of the Legislative or Official Authorities committed to them might be liable to abuse and prostitution. The consequent Acts of Rapine and Breaches of the Public Faith are serious Objects of Regret to the Sufferers who have craved ever since with unavailing Solicitude for Redress.

The Expedient of issuing Licences of Occupation is specifically sanctioned by His Majesty's Royal Instructions (App. A. 16) as well as by the Practice of Nova Scotia, which had been recommended, and in the then existing Circumstances of the Colony was found to be particularly expedient, to be followed. The Settlers were immediately on their Arrival to be located in suitable Situations, and the permanent Possession of the Lands allotted to them respectively and of the Improvements and Buildings they were to make or erect thereon was to be secured and warranted to them. Licences were of course expedited without any Expence to them, to be held as Legal interim Tenures until such time as formal Patents might pass. The People were perfectly satisfied, and accordingly proceeded with a laudable Spirit of Industry. The Licences were worded as follows (App. B. 226). viz:

" J. F. W. DESBARRES.

(L. S.)

" BY Joseph Frederick Wallet DesBarres,
" Esquire Lieutenant Governor and Commander
" in Chief in and over His Majesty's Island of
" Cape Breton and it's Dependencies, &c. &c.

" LICENCE is hereby granted unto Thomas Lewington his Heirs and Assigns, to have hold occupy possess and enjoy, until a Grant shall pass to him and Them in due and regular Form under the Great Seal of this Island, a certain Lot of Land surveyed laid out and numbered Five situate on the Eastern Shore of the South East Branch of Sydney Harbour, with all the Privileges Profits and Appurtenances to the said Lot belonging or appertaining, Only rendering to His Majesty His Heirs and Successors annually, if demanded, One Pepper Corn until a Grant thereof shall pass to the said Thomas Lewington His Heirs and Assigns as aforesaid. PROVIDED that, if the said Thomas Lewington his Heirs and Assigns shall not accept of a Grant thereof, subject to and under all the Terms and Conditions, ordered directed and prescribed by His Majesty when such Grant shall be made and passed under the Great Seal of Cape Breton, then this Licence and every Thing therein contained shall cease and be utterly null and void to all Intents and Purposes whatever; And the said Thomas Lewington his Heirs and Assigns shall no longer be enabled to have hold occupy possess or enjoy the said Premises and Appurtenances; but shall forfeit all Right Title Interest and Claim therein and thereunto. Given under my Hand and Seal this Tenth Day of May, 1785."

Vide, the following Extract of another Remonstrance addressed in the same Year to His Majesty's Secretary of State, by the Provost Marshal of Cape Breton (App. B. 221.) viz.

" Lieutenant Governor Macarwick seized on the Farms of Governor DesBarres, together with the Stock of Cattle, Horses, Sheep, &c. and turned the Tenants off the Premises and has appropriated the whole to his own private Use. He also deprived Thomas Lewington of a Farm that he had possessed for three Years and built upon, and cleared and fenced the Land. He made out a Grant to Admiral Sawyer of Lands belonging to Twelve disbanded Soldiers who had partly cleared and improved the same and built thereon. The reserved Lands for a Fishing Settlement at Guyon's Bar, he granted to Four Persons in Trust for himself, who made over the same to him. The Lands on the Bay of Rocks in the Isle Madam, settled by Ten Families of Fishermen, he granted to a Friend of the Romish Priest at Arishat. And the Lands belonging to an Inhabitant of Arishat, he granted to the said Priest.

[d] Such Enormities required immediate Inquiry, Consideration, and adequate Redress. The Countenance thereof were inconsistent with the Justice and Dignity of Government: Vide App. C. 500 to 503, 510 and 511, 513. Vide also Mr. Ingouville's Memorials and Papers, on which Des Barres addressed the following Letter to His Majesty's Secretary of State dated 5th June 1792 (App. A. 108) viz:

" Being informed by Mr. Ingouville that a Piece of Land with a Saw Mill and other Buildings erected at my Expence in Cape Breton which I had leased to him, has been taken out of his Possession, under Pretence of Authority from the Secretary of State's Office, and in consequence of Legal Opinions from the Attorney and Solicitor Generals here saying that my Title was a Fraud on Government.

" As I have not seen the Opinions, nor the Case upon which the Opinions are said to be founded, and received no Notice thereof, though known by every Person in the Secretary of State's Office to be on the Spot here and principally acquainted with the Matter and concerned, I know not whether to believe that there was such Proceedings, or whether it was only given out there for covering an Act, not only unjustifiable in itself, but the Execution of which must otherwise have been resisted here.

" In this State of my Intelligence, I can only refer Mr. Ingouville to represent his Case at the Office, and myself to declare that whatever Representations may have been made to the Office, grounding such Opinions are false and surreptitious; for, I have the best Claim and Title in the World to the Object, and, when the Truth is known, the Authors of such iniquitous Representations will have cause to be ashamed. In the mean time, conceiving that there is a Plot, as well to cast farther Calumnies on me as well as to plunder a Subject of a just Article of Property contrary to the real Intentions and Practice of Government, I trust, it is unnecessary to caution you, Sir, against confirming it, and I hope that, in order to detect so audacious an Imposition to obtain the sanction of Government to it, be the Authors or Connivers who they may, you will be pleased to indulge me with the perusal of the whole and with an Opportunity of examining it to the bottom and of laying the Scene open to you, as well for the Purposes of Justice, as to repress such dangerous Attempts for the future; As the like have already done much mischief, attended with infinite Trouble and Difficulties to Government, and are not to be repressed effectually in any other manner, &c.

" Right Hon. Henry Dundas, &c. &c.

" J. F. W. DESBARRES."

[e] One of these Disbanded Soldiers (Hugh Gordon, who had been recommended as a meritorious Subject by Marquis Cornwallis to Des Barres in 1784) came afterwards to seek Redress in England. Having stated his Grievance to Admiral Sawyer, the Admiral wrote to him that he never had desired to be possessed of, nor ever intended to improve or settle any, Lands in Cape Breton, and advised Gordon to represent the Case to Government.

[f] Perpetrations of this Nature, App. C. 373 to 386, 423, 435 to 438, 428, 500 to 511, 513, &c.

IN the Month of September, the Secretary of the Treasury desired to be informed of the Names of the different Persons who were in possession of the several Bills which DesBarres had drawn and the Amount thereof in the hands of each Person; also, to be furnished with a Description of the several Buildings erected by his Orders at Cape Breton and contained in his Account (120). DesBarres having complied with the Requisition, was shortly thereafter directed

" Governor Macarmick, in order to serve himself and his Friends, altered the Plan of the Town of Sydney and deprived many of the Lands allotted to them by Governor DesBarres, although Grants had been passed and registered. A Piece of Thirty-four Acres of Land, cleared by William Blackburne, he took to himself. The Ground whereon Governor DesBarres had erected a Frame for a Court House, &c, containing about Fourteen Lots, he gave to Messrs. Cuyler and Mathews. The Glebe Lands, he disposed of to Messrs. Storey and Uncle. The Ground allotted for a Church and Parsonage House, Church Yard, &c: to sundry Persons. The Lots laid out on each side of the Road leading to Miray, appropriated by Governor DesBarres to a Number of Persons; surveyed and laid out to them and all Expence defrayed by Governor DesBarres, were taken from them by Governor Macarmick and granted to Others.

" In June 1788, when a Number of Persons from the State of New Hampshire came to lay out and settle upon the Lands on the River Miray, granted to them and their Associates by Governor DesBarres, Governor Macarmick told them he would set his Face against them, if they should attempt to settle, and forbade them even to look at any Land in the Colony. The Inhabitants of Arishat, where the principal Fisheries are carried on, were so dissatisfied at not obtaining Grants for the Lots on which they had settled, and at the high Charges made for Grants, that many resolved to leave the Island, and actually paid the Surveyor in Nova Scotia to lay out Lands for them in that Province.

" Governor Macarmick at two different times has drawn on Government for near Four hundred Pounds for Repairs of the Government House, which I am certain could have been executed for One hundred Pounds. He has in the same manner made out a Charge of near Seven hundred Pounds for Expences of Convicts. Two hundred and fifty Poundsworth of Provisions, received from Halifax for the Convicts were not issued, and the Convicts were turned loose and have gone off. Upwards of Four hundred Pounds has been drawn for Surveys never performed, none having been made since Governor DesBarres left the Island: The Acting Surveyor P. R. Nugent only copying from the Surveys done by Others before that period, and, at the same time that he charged Government, he extorted Six Dollars for each Return from the Inhabitant; Although, when he pretends to Survey, he only measures the distance in the Front. This Man, being a professed Roman Catholic and acting as a Deputy to the Priest, can be at no loss in proving his Charges against Government on Oath in the common mode as used by Protestants, whom he considers as Heretics.

" On the 6th June 1789, the Attorney General Mathews acquainted me that Lieutenant Governor Macarmick had proposed in Council to apply the Money voted by Parliament for defraying the Contingent Expences of the Island, to purchase Live Stock &c: at Boston."

* Vide: DesBarres's Official Report of the 28th February 1789, on a Reference to him from the Secretary of State, and Documents. App. 436 and 437.

Vide also Extract of a Letter from Dr. William Smith, (appointed by Mr. Macarmick, on the Suspension of Chief Gibbons, to act in the Capacity of a Judge in the Colonial Supreme Court of Judicature) exhibited at the same time for the Secretary of State's Information, dated at Cape Breton, 25th May, 1789, (App. C. 426.) viz.

" IF the Ministry do not intend to make a New Arrangement in the Civil Establishment of this Island, they should lose no time in making a Present of it to the *Tris*, than whom His Majesty has not more unworthy Subjects in His Dominions. They are already Kings *de facto*: By a formal Renunciation of the Island they would become Kings *de jure*, which I think I should find no difficulty to prove would be more beneficial to England than to suffer the Settlement to remain in its present State. They will soon be Kings without Subjects. I only lament having laid out so much Money in the Island without the most distant hope, as matters now are, of any return. I have spent this Winter in the Woods with my Servants only, have not spent an Hour in Town except on Public Business, as my unreserved manner of speaking would render it now too dangerous for me to spend an idle Hour in their Company. As they cannot hang me, they seemed determined to hang Three or Four unhappy Wretches in Opposition to me. I am sure if His Majesty knew the Character of one Person who fills a sacred Office here, He would instantly remove so baneful a Character from a New Settlement. Every good Man, every serious Christian must behold with horror so impious a Sight, which hurts me more than any other Circumstance in the Island. But I can do nothing. I find sufficient employment to watch and defend myself, and am glad so far to make a Sacrifice to the Idol with Three Heads as to acquiesce in several Public Measures, which I could not with effect and without Danger oppose, though I never failed to express my Sentiments on these Occasions; but a formal Dissent or Protest, entered on the Journals of Council, would long ago have sent me a packing. My extreme Unwillingness to give any Trouble at Home, joined with the dread of Delay and Difficulty of procuring a Hearing, has influenced my Conduct greatly in Council.

† *Accomplice in the Execution of the unhappy Men alluded to.*

On the Series of Oppressive, unwarrantable or unworthy, Proceedings at Cape Breton, from the Period of October 1787 to the present Moment, whereby that valuable Colony has been brought into its present prostrated State. Vide App. C. 273 to 443, 500 to 513, Documents and Correspondence respecting the Suspensions of Chief Justice Gibbons and the Provost Marshal. The Report of the Lords of His Majesty's Privy Council, dated the 15th of June 1790, reprobating in strong terms some particular Instances of Mr. Macarmick's and the Colonial Councils' Proceedings as *unwarrantable and highly necessary to be discountenanced*, &c:

(120) Vide Letter from Mr. Steele to DesBarres, dated Margate 13th September 1789, (App. A. 58.) viz.

" I AM sorry Mr. Roberts cannot come to Town; The enclosed Letter, which I received from him by yesterday's Post, will explain to you the Cause. I should hope that Mr. Thomas will not hesitate to do what you have required of Mr. Roberts, and that he will, without loss of time restore to you the several Bills which you drew in favour of Mr. Roberts, and furnish you with a state of your Accounts. I must trouble you, to let me know, as soon as you conveniently can, what the Names of the different Persons are, who are in possession of the several Bills drawn by you, and what the Amount of the Bills in the Hands of each Person. I must also trouble you to furnish me with a Description of the several Buildings erected by your Orders at Cape Breton and contained in your Account, in order that I may write to Governor Macarmick agreeable to the Instructions I received from Mr. Pitt, &c.

" THOMAS STEELE."

Letter to Mr. Steele from DesBarres, dated London, 18th September, 1789, (App. B. 87.) viz.

" MY Application to Mr. Roberts for an Account Current, and for delivering up to me the Bills drawn in his favour on the Lords of His Majesty's Treasury which remain unpaid, is still unanswered. In the mean time Mr. Thomas allowed me yesterday to transcribe from one of his Books, the Names of Holders of several of my Bills on Mr. Roberts, the time when due, &c. whereby I have been enabled to make out the enclosed Lists of Bills drawn by me during my residence in Cape Breton—paid, and remaining unpaid [a]. I have already stated to you that a considerable Property of mine is now in the possession of the Bill Holders, far exceeding in Value the whole Sum claimed by me of Government, which has been adjudged to them in Default of Payment of the respective Bills alluded to. Feeling myself incompetent to form any Idea sufficiently clear of Mr. Pitt's Intentions and Pleasure, I will, for the present, postpone any Observation on that head. Your Commands in respect to the Descriptions of Buildings, erected for the Public Service by my Orders at Cape Breton, shall be obeyed as speedily as possible [b]. There are, besides the floating Bills,

to attend at the Treasury; where Mr. Steele having (in the course of several Days Examination and Investigation) gone through a Scrutiny of the Accounts and minutely collated the Vouchers with the relative Articles of Charge, expressed his Satisfaction thereof and declared he would report to Mr. Pitt accordingly and propose that a Sum of Money be issued in the mean time to allay the

" other Demands on me, which I am very anxious to be enabled to discharge: Such as Mr. Sharpe's Account for sundry Supplies for the Public Service—Mr. Rutherford, for Money applied to the Payment of Artificers and Labourers in the Public Works, &c. &c.
" J. F. W. DESBARRES."

[a] Vide *LISTS* of Bills drawn by DesBarres, App. B. 88 to 91.
Amount thereof, paid and cancelled by him . . . £. 8982 3 7½
Ditto—remaining unpaid (exclusive of other Claims) 8100 0 0

" *LIST* of *BILLS* drawn by DesBarres on the Lords of His Majesty's Treasury for Monies advanced in the Settlement of the Island of Cape Breton and Dependencies. *Vide Accounts and Vouchers transmitted.*

No.	Dates	In favour of	Purposes and Services.	£.	s.	d.
" 1	Aug. 3, 1785	W. Roberts	On Account of Estimate transmitted	*3000	0	0
" 2	Sep. 3, . .	Do.	Building Materials for Loyalists	*960	8	3
" 3	Oct. 21, . .	Do.	BALANCE to 30th Sept. 1785	2701	8	5
" 4	— 30, . .	Do.	Current Expenditures	1500	0	0
" 5	Nov. 10, . .	J. Wilkinfon	Lumber for Loyalists	*276	0	0
" 6	Dec. 8, . .	John Yorke	Working Parties from 33d Reg. *	84	8	10
" 7	Mar. 6, 1786	Fr. Bouchet	Provisions, &c:	*100	0	0
" 8	Do.	Do.	Ditto.	*395	0	0
" 9	Do.	Do.	Ditto.	*731	19	4
" 10	— 8, . .	W. Roberts	BALANCE to 31st Dec. 1785	2476	15	2
" 11	April 11, . .	Do.	Ditto. to 25th March 1786	1649	18	9
" 12	May 29, . .	Do.	Current Expenditures	1500	0	0
" 13	Do.	Jof. Gravois	Outfits & Wages Brig. Rachael	*124	3	5
" 14	June 23, . .	P.R. Nugent	Surveying Lots to Settlers	94	5	6
" 15	July 12, . .	W. Roberts	BALANCE to 11th July 1786	215	6	6
" 16	Nov. 17, . .	G. Townsend	To purchase Provisions	500	0	0
" 17	— 18, . .	Do.	Ditto	500	0	0
" 18	— 19, . .	Do.	Ditto	500	0	0
" 19	— 20, . .	Do.	Ditto	500	0	0
" 20	Dec. 19, . .	Sam. Sparrow	Provisions	493	2	5
" 21	— 20, . .	Do.	Building Materials	36	15	5
" 22	July 24, 1787	Do.	Provisions	337	17	0
" 23	Aug. 6, . .	P.R. Nugent	Surveying, &c	*121	18	2
* Bills paid, amounting to £. 5888 3s. 6d.				£. 18799	7	3

[b] Vide: *LIST* of *PLANS* given into Office to elucidate sundry Services performed by Surveyors, Chainmen, Axmen and Labourers employed under the Orders of DesBarres in laying out Towns and Settlements for the Fishery, opening Roads of Communication through the Woods, admeasuring Allotments of Lands to Individuals &c: *PLANS* *ELEVATIONS* *SECTIONS* and *DESCRIPTIONS* of Buildings and Works executed by Artificers and Labourers, such as erecting Wharfs, Magazines, Barracks, &c: viz.

" A *GENERAL PLAN* of Cape Breton, divided into Districts, Counties and Townships, with Observations, &c. *PLANS* of the Harbour and Environs of Sydney—of the Town of Sydney—of the Fishing Settlement of Indienne—of the Town and Fishing Port of Menadiou—of Louisbourg Harbour and Fishing Allotments—of the Township of Miray, &c. *PLANS*, *ELEVATIONS* and *SECTIONS* of Buildings as follows. viz:

" *MAGAZINE* for Provisions, Stores and Implements (50 by 20 Feet and 22 in Height) built with strong Logs, clapboarded over, Roof doubly covered with Inch Board and capped over Joints, lower Floor laid with flatted Logs closed and boarded over, upper Floor with Plank and Boards; the whole fitted with Divisions Shelves and Compartments for the various Stores, Tools, &c.

" *STORE* for Provisions (35 by 22 Feet and 15 in Height) built with Logs and covered over with Sodd, in order to be secure against the severe Frost.

" *SMALL BUILDING* erected for DesBarres' immediate Shelter on his Arrival at the Colony in Winter 1784 (21 by 20 Feet and 17 in Height) framed boarded and clapboarded over, Roof boarded and shingled, floored and partitioned with Plank and Boards covered with Canvas and papered over &c. Also Three capacious *SHEDS*, completed

" with Logs, Boards and Plank, and fitted for the Reception and Shelter of the newly arrived Settlers and their Families.

" *SHED* for issuing Tools to the Artificers and Labourers (20 by 14 Feet and 10 in Height), Sides, Roof, Floor and Partitions of Board and Plank.

" *PROVISION STORE* and *COMMISSARY'S OFFICE* (40 by 20 Feet and 12 in Height) Sides Ends and Roof of Inch Board lapped over, Partitions and Floors of Plank.

" *BLACKSMITH'S FORGE* (18 by 14 Feet and 17 in Height) Sides and Ends of Logs boarded over, Roof of Boards overlapped, completely fitted with Bellows, Anvils, Vices, &c: &c:

" *CARPENTER'S WORK SHOP* (40 by 20 Feet and 15 in Height) Sides Ends and Roof covered with Boards overlapped, Floor Two Inch Plank, fitted with Working Benches, &c: &c:

" *BARRACKS* for six Companies (135 by 35 Feet and 31 in Height). Foundation of strong Masonry with Cellars for Provisions, partitioned and fitted with Plank. Superstructure, a Strong Timber Frame, Sides and Ends double boarded grooved and clapboarded over, Roof boarded and shingled, Three Floors framed and double boarded, Four Stacks of Chimnies, Three Stair Cases, Twenty Rooms and Closets fitted for Officers, Non Commissioned Officers and Privates, Inside furred lathed and plastered throughout, Loft for Baggage and Quarter Master's Stores, Roof and Outside painted over Clapboards and Shingles.

" *BREWHOUSE* (22 by 20 Feet and 16 in Height) Sides and Ends of Logs, Roof boarded.

" *STORE* for the *GARRISON PROVISIONS* (50 by 20 Feet and 15 in Height) Sides and Ends of Logs, Roof doubly boarded and shingled, Floors Two Inch Plank and Boards.

" *GOAL* (20 by 14 Feet and 14 in Height). Sides Ends and Roof of strong Logs caulked, &c: Roof covered with overlapped Inch Boards, Floor and Partitions with Plank and Boards.

" *BUILDING* for holding *COURTS MARTIAL*, *OFFICERS' MESS-HOUSE*, &c: (33 by 22 Feet and 21 in Height) composed of a strong Frame doubly boarded, Roof boarded and shingled, Inside lined with Boards, Floors Partitions and Closets of Inch Boards.

" *SCHOOL HOUSE* (22 by 18 Feet and 17 in Height) Framed boarded and clapboarded, Roof boarded and shingled, Floors Two Inch Plank and Boards, fitted with Tables, Benches, &c: [The Books are a Gift from Sir William Dolben.]

" *HOUSE* and *OFFICE* for the *COMPTROLLER OF HIS MAJESTY'S CUSTOMS* (24 by 19 Feet and 14 in Height) a Frame doubly boarded Partitions and Closets of Inch Boards.

" *MARKET HOUSE* (24 by 17 Feet and 15 in Height) a Frame, the Sides Ends and Roof Inch Boards overlapped, Floor planked.

" *GUARD HOUSE* (22 by 16 Feet and 15 in Height) framed, Sides Ends and Roof doubly boarded and overlapped, floored and with fitted Plank, &c:

" *HOUSE* for the *OFFICER* commanding the *Garrison Troops* (33 by 22 Feet and 21 in Height.) Foundation and Cellars of strong Masonry. Superstructure framed, Sides and Ends boarded and Roof clapboarded, boarded and shingled, Floors doubly boarded, Inside and Partitions furred lathed and plastered, finished Base Surbase and Cornices, pannelled Doors, completed and painted throughout.

" *EIGHT* small *BUILDINGS* for the Wives and Families of the *Garrison Non Commissioned Officers* and *Soldiers*. (each 20 by Feet 31 and 13 in Height) Sides and Ends of Logs boarded outside and inside, Roofs overlapped Inch Boards, Floors and Partitions Planks and Boards.

" *HOSPITAL* (30 by 16 Feet and 18 in Height) framed, Sides and Ends doubly boarded and clapboarded over, Roof boarded and shingled, Floors doubly boarded, Inside furred lathed and plastered, Partitions Medicine Room Closets and Births for the Sick of Inch Boards and Plank.

" *ROOTHOUSE* for the *GARRISON* (20 by 20 Feet and 15 in

Impatience of the most clamorous Creditors, until the Accounts might be finally settled and liquidated.

IN December, the Lords of the Treasury placed the Sum of ten Thousand Pounds in the hands of Bankers with Instructions to *discharge sundry Protested Bills drawn by DesBarres in the course of carrying on the Public Service in Cape Breton, directing an allowance to be made to the Holders of the Bills, for noting, protesting, and Interest at the rate of Five per Centum from the time the Bills were due to the Date of Payment* (121). But some of the Bill Holders, who had early taken advantage of DesBarres's oppressed Situation and made Seizures, far beyond the amount of their Claims, of his Property, were now extremely unwilling to yield up on any reasonable Terms the Possession thereof, which they had indulged the hope of maintaining until the full expiry of the Equity of Redemption, (when according to the Practice in Nova Scotia) the whole Property would become sanctioned by law to them for ever (122): To this End, they

" Depth) framed, Sides and Ends boarded, Roof of Logs boarded over
" and covered with Two Feet of Earth and boarded over all, Trunks
" to admit fresh Air, &c:

" SERJEANT MAJOR'S HOUSE (22 by 16 Feet and 15 in
" Height) a Frame, Sides and Ends boarded and clapboarded, Roof
" boarded and shingled, Floors and Partitions of Boards and Plank.

" TWO OFFICES for the Secretary and Clerks, and the Inspector
" and Paymaster and Overseers of the Public Works (each 20 by 18
" Feet and 17 in Height) framed, Sides and Ends doubly boarded and
" clapboarded, Roofs doubly boarded and shingled, Floors and Partitions
" of Plank and Boards, pannelled Doors, fitted with Tables, Shelves
" and Closets for Papers, &c.

" STORE for PROVISIONS &c: (40 by 20 Feet and 18 in Height)
" Foundation of Masonry. Superstructure a Frame, Sides and Ends
" boarded and grooved Roofs boarded and shingled, Floors Partitions
" Shelves and Compartments for Tools &c: of Plank Boards.

" HOUSE for the ISSUER OF PROVISIONS (18 by 14 Feet and
" 15 in Height) Sides and Ends boarded and clapboarded, Roof boarded
" and shingled, Floors doubly boarded, Partitions, &c: of Plank and
" Boards.

" HOUSE and WORKSHOP for the QUARRIERS and STONE
" CUTTERS, (34 by 22 Feet and 17 in Height). Frame, Sides Ends
" and Roof doubly covered with Boards overlapped, Floors planked.

" A large quantity of Free Stone with cut Blocks and Slabs, prepared for

" building the Church and Government House, remained at this Place
" on DesBarres' Departure from the Colony

" BUILDING for a PUBLIC SCHOOL (52 by 29 Feet and 23 in
" Height) Foundation strong Masonry. Superstructure a Frame, Sides
" and Ends covered with grooved Plank weatherboarded over, Roof
" boarded and shingled. [This Building was (when nearly completed)
" on the 27th of September 1786, blown down by a violent Hurri-
" cane, which at the same time destroyed a considerable Number of
" Houses belonging to the Settlers.]

" BUILDING for holding the SUPREME COURT and other
" Courts of Judicature (52 by 29 Feet and 23 in Height). [Blown down
" by the Hurricane mentioned.]

" HOUSE erected on a Piece of Ground laid out as a private property
" to DesBarres and intended only as a TEMPORARY ACCOMMO-

" DATION at his own Cost until the Public Buildings to be erected on
" the Allotment of Land reserved for a Government House and Offices
" might be completed for his Reception, for which purpose Materials
" were prepared (55 by and 38 Feet 28 in Height.) Foundation of Ma-
" sonry with Vaults, Cellars and Kitchens. Superstructure a Frame
" filled with Blocks, Outside laid over with Two Inch Plank grooved
" and tongued, Roof boarded and shingled, Floors of Boards tongued
" and grooved, Inside furred lathed and plastered, Partitions of Plank
" and Boards.

(121) Vide: The following Order dated Treasury Chambers, 19th December 1789, (App. A. 517.) viz.

" THE Lords Commissioners of the Treasury having placed the Sum of Ten thousand Pounds in your hands for the purpose of paying off and can-
" celling sundry Bills drawn by Lieutenant Governor DesBarres, in the Course of his carrying on the Public Service in the Government of Cape Breton in the
" years 1784, 1785, 1786, and 1787, and Lieutenant Governor DesBarres having represented that Executions had been levied upon and Possession obtained
" of his Estates in consequence of several of the said Bills having been returned unpaid.—I am commanded by their Lordships to desire that you will cause
" immediate Payment to be made of all such Bills as shall be presented to you, or of such Sums as Governor DesBarres shall admit to be justly due thereon,
" on account of the Services abovementioned and to request that you will use your Endeavours to promote a speedy and final Adjustment of the Business
" between the Parties. I am further to add, that My Lords approve of an Allowance being made to the Holders of the said Bills for the Expence of
" noting and protesting together with an Interest at the rate of Five per Centum, from the Time they became due to the Day of Payment; But their Lordships
" cannot consent to the Payment of any Sum on account of Damages or Interest at an higher rate, &c.
" To Sir Herbert Mackworth, Bart. and Company."

" THOMAS STEELE."

(122) Vide: Letter from Mr. Monk (employed to defend sundry Suits instituted in Nova Scotia against DesBarres, for Supplies for the Public Service in Cape Breton, dated Halifax 13th January 1788, (App. C. 516.) viz.

" Mr Samuel Sparrow has laid Attachments upon your Estates in this Province, to the Amount of Four thousand and forty one Pounds, for your
" Bills returned protested. Mr. Sparrow has employed Mr. Blowers and, in case I find occasion, I shall take the Assistance of Mr. Sterns who was with
" me in the Defence upon Denison's Attempt against you, and is now with me to defend the Action against you by Jodrit. I lament that you
" Menaudie Tenants have not Advisers more truly attached to your Interest, than those who dissuade them from giving a Power to wrest from the Hands
" of the Sheriff their Stock now under Attachment for Jodrit's Demand against you. I fear how much this may break upon your Arrangements and
" Expectations from those Settlements, as it may tend to the Loss of your Settlers, either by Forfeiture of their Leases, or their Inability to continue
" their Improvements, if their qualified Property in the Stock is not unquestionably acknowledged secure from Demands against their Landlords; besides
" the Danger of creating a Dispute between you and them in the Sequel. We shall endeavour to keep Jodrit's Suit undecided till you have time to give
" such Directions as you may wish should govern our Proceedings in the Business, which will be soon desired, as some time has elapsed since the Suit was
" commenced. A Letter received from Tatmegouthe informs that Mr. Tremaine, for himself and others, have attached your Estate there for the
" Amount of Two Thousand Pounds.

Also, Letter from the same, dated 27th February 1789, viz.

" Mr. Sparrow's Cause has been continued from Term to Term. Till next April Court will be more than a Year since the Commencement of the
" Action. You must now determine, and that without Delay, whether to endeavour by an Injunction from Chancery to stop his Proceedings at Com-
" mon Law, or let him proceed to Judgement and Execution. All that could be done to obtain time in the Court where the Suit is now pending has
" been, and to risk a Trial at Law in the present circumstances of the Case is by no means advisable. It is requisite in your Determination to consider that

exerted all the Influence and means in their Power, to foster and uphold the Illusion, under which Government appeared to labour in its Treatment, as well of His Majesty's Colony of Cape Breton and the Public Interests and Honour connected therewith, as of DesBarres. Hence Law Suits and Arbitrations arose, which in their Result, however satisfactory in the Eviction of DesBarres's unblemished Conduct; yet proved nevertheless additionally ruinous to his Fortunes and all his Prospects in Life (123).

" the Costs of Proceedings in Chancery are very great and must be paid in Cash as the Business goes on, and that, for that purpose, a Sum of Money, or a Fund, where to obtain what may be wanted from time to time to pay Fees, must be lodged in Halifax.

Vide also, Letter from Mr. Sterns (*Barrister at Law*), dated Halifax, 2d December, 1789. viz.

" AGREEABLE to your wishes I have inquired into the State of your Affairs here. There are, as you have been before advised, three Executions levied on your Estate at Tatmegouthe, Hall's, Robertson's and Tremaine. The Account Current of Hall (whose Attorney I was originally) is enclosed to Mr. Taylor, who is by him authorized to receive from you Payment of the Money; He has also lodged with me the Sheriff's Deed, and I will do, and see done, every thing farther necessary to discharge the Judgment on being advised of the Payment of the Money. The Charges of levying the Execution are exorbitant; but they are such as were to my Knowledge *bona fide* disbursed and paid by him: They are more than the Legal Fees; but such as our Court, I am informed, would, and do, allow on other Occasions. You will judge of the Propriety of contending against them; under the Circumstances of the Case. Tremaine's Bill is liable to the same Exceptions in some Degree; As to Robertson, I have given a Certificate to him, which will be exhibited to you by Mr. Taylor. I have there specified what you are legally bound to pay, and what not. With respect to these also, I must repeat that you will judge of the Propriety of contending. The Difficulty you will have to encounter is this: In case of a Contest, they will sell the Property when the Equity of Redemption is expired, unless you pay up the whole Sum due on the Judgments—the Expence of doing which, by remitting the Money hither, with the Interest of the Money, will amount to more than the Sum in Dispute. Being thus possessed of all the Information on the subject which I have, you will judge for yourself what is prudent on the Occasion. I shall be attentive to Sparrow's Suit, and to all other of your Concerns in which I can be serviceable to your Interest.

" I have sent by this Opportunity to Mr. Taylor, a Bill of Exchange, which I took a long time since from Martin Meagher, and remitted to London for Payment, but which was returned under Protest, I took it from a Correspondent, who has been, ever since that Protest of it, out of his Money. I have no doubt, you will pay it with the Damages and Interests on its being presented to you."

Vide also, Writs of Attachments, Judgments, Executions, and Devastations, of DesBarres' Property, (App. C. 491 to 516, &c.)

(123) Particularly, One of the Persons alluded to (whose unjust Claims on Government DesBarres, conceived it to be his Duty to resist, and who appeared to enjoy much unmerited Attention in the Public Offices, and made public boast of confidential Communications to him, and of his Knowledge, of the adverse Disposition of His Majesty's Ministers towards DesBarres) occasioned an Arbitration which lasted nearly Two Years. And upon the Conclusion of it, the Arbitrators Sir William Dolben, Sir Herbert Mackworth, Barts. and Philip Sanfon, Martin Petrie, George Bainbridge, Esquires, thought it incumbent on them, to address the following Representations to Treasury (App. B. 223-) viz.

" Abingdon Street, 7th September, 1791.

" I AM desired by my Brethren the Arbitrators on the Case of Lieutenant Governor DesBarres (for he has been constantly informed that he is only suspended from the Exercise of his Government during the Examination of his Conduct which has been arraigned, and not superseded) to put into your Hands the enclosed Letter, requesting you would communicate the same to Mr. Pitt, and lay it before the Lords of the Treasury: humbly, but earnestly, entreating their Lordships immediate Consideration of the Subject; it being of the most decided Consequence to the Honour and Fortunes of Mr. DesBarres, as well as Justice to him and the Public, as a Man holding so high and responsible a Character, that his Conduct should, without further delay, be investigated, the Charges against him be made known to him (which has not yet Officially been done) his Defence heard, secret Calumnies, if any, refuted, and Judgment given from open Evidence and Public Documents, long since produced and delivered into the proper Office, &c.

" W. DOLBEN."

" MY LORDS,

" London, 27th August, 1791."

" REFERENCE under Bonds of Arbitration having been made to us of some Matters in Dispute between Lieutenant Governor DesBarres and Mr. Samuel Sparrow, We, on the 30th past executed our Award. Through a long Investigation, the general Conduct of Lieutenant Governor DesBarres during his Government at Cape Breton came incidentally before us, and we are happy to say that no Evidence was produced to induce us to believe that he had not exerted himself to establish and support the Government committed to his Charge in a manner deserving Commendation. From Causes unknown to us, many of his Bills on Government were not accepted, and Discredit followed of Course. Driven by successive Disappointments to the most urgent Necessity of borrowing Money to support the Measures of Government; he subjected his private Property to become a Security on the Public Account: his Landed Estates then became liable too, and were actually seized under Attachments to his great discredit, and his Personal Liberty was endangered.

" Such was the Distress Lieutenant Governor DesBarres felt in the midst of his ardent Endeavours to shew himself worthy of his Appointment, humanely exerting himself to uphold an Infant Colony nearly feeling the dire Effects of Famine: He stood forth to alleviate the Sufferings of those living under his Protection, by debiting and pledging his private Property to obtain Public Supplies. In this Situation, his Calamities and Misfortunes were increased, by his being recalled from his Government.

" The Examination of Lieutenant Governor DesBarres's general Conduct being now a matter before your Lordships, with the Vouchers and Proceedings necessary for the Enquiry, we could not, for want of sufficient Evidence in the Matter before us, decide upon any Part of the Complaint on which he claims Damages, for Injury sustained by him in consequence of those Accusations and Misrepresentations affecting his Public Conduct. Feeling our Inability to give redress where it is most wanted, or relief to injured Honour, and a Character (as he affirms most solemnly) infamously traduced, and which wants no justification but enquiry. We think it a Duty incumbent upon us to trouble your Lordships, requesting that the speediest Examination into all Matters relative to the Accounts of Lieutenant Governor DesBarres may take place. He has been, he tells us, upwards of Three Years soliciting an Enquiry, from whence alone his Peace of Mind can be restored and the Misery of lying under suspected Guilt be removed.

" Trusting he will find the Justice he wants from the Tribunal of your Lordship's, we less regret the Deficiency of Power in Ourselves (from want of Evidence) to have pursued such an Investigation, which otherwise would have commanded our Attention and Perseverance. We have only to add, that Lieutenant Governor DesBarres has repeatedly assured us, that he wishes the Charges against him to be most explicitly made known—requesting no Favour, excepting only that his Case may be speedily and fully heard his Accusers brought forward to confront his Defence, that he may stand or fall upon the minutest Inquiry into every Part of his Conduct, which he pledges himself to prove, has been untainted with any interested Motive tending to benefit himself under the smallest Impostition on Government, or knowingly to have deviated from his Warrant of Instructions as Governor in any Case where they could be followed; but, on the contrary, to have been zealously attentive to his Duty on all Occasions.

From the Complication of these Difficulties in the Arrangement of Matters, the Bankers did not render their Account to Treasury before April 1792 (124).

Out of the Sum placed in their Hands	£.10,000	0	0
They had paid for attending Expences, Interests &c:	2828	3	1
And the Amount of principal Debt discharged, was only	£.7171	16	11

And having been induced, (apprised of the Consequences which would arise from of the Expiry of the Equity of Redemption) to advance a Surplus Sum of £.553 16s. 2d. they gave notice to DesBarres, that, should Treasury object to reimburse them, they would debit his Account for the same—which they accordingly have done (125). They presented at the same time, with their Ac-

" From a long Detail of Circumstances stated to us, we think that under the Investigation of your Lordships, the Governor's Assertions will be verified, when, we doubt not, he will receive ample Compensation under your Lordships Directions for all his sufferings. We have the Honour to be with all due Respect, &c.

" To the Right Hon. Lords Commissioners
" of His Majesty's Treasury."

" W. DOLBEN.
" HERBERT MACKWORTH.
" PH. SANSOM.
" M. PETRIE.
" GEO. BAINBRIDGE."

(124) Vide: Account rendered by Messrs. Dorset, Johnson, and Co. to the Lords of the Treasury.

(125) Letter from Messrs. Dorset, Johnson, and Co. to DesBarres, dated Bond Street, 2d April 1792, (App. C. 518.) viz:

" AGREEABLE to your Request, herewith we send, per Mr. Otley, one of our Clerks, a State of the Account for Monies paid by us per Order of the Lords Commissioners of His Majesty's Treasury, together with the relative Vouchers for your Examination, which we beg you will return by the Bearer, with any Remarks you may have to make respecting them. You will perceive that the Sum paid exceeds the Ten thousand Pounds we received from their Lordships by the Sum of £.553 16s. 2d. which, should they object to reimburse us, we shall of course debit your Account for the same. We have farther to observe, that there are still other Claims, which cannot be liquidated till we are furnished with a Supply of Cash for the Purpose. To Governor DesBarres."

" DORSET, JOHNSON, and Co."

Letter from the Secretary of Treasury to Messrs. Dorset, Johnson, and Co. dated Treasury Chambers, 2d May 1792, (App. C. 520.) viz.

" THE Lords Commissioners of His Majesty's Treasury having had under their Consideration your Letter dated the 7th of April, stating that in pursuance of Mr. Steele's Letter of the 19th December 1789, you have, under the Inspection and Sanction of Lieutenant Governor DesBarres, discharged sundry Bills, with the Expence thereon, drawn by him during his carrying on the Public Service in the Government of Cape Breton, as appears by a Statement enclosed amounting to the Sum of £.10553, 16s. 2d. and transmitting also a List of Bills and Claims still remaining unsettled, upon which you request their Lordships directions: I am commanded, by My Lords, to desire you will inform their Lordships, whether the Sums charged in your Account, as Expences upon the Bills drawn by Lieutenant Governor DesBarres, arise only from the Expence of Protests and Interests, at Five per Centum, as stated in a Letter from My Lords of the 19th December, 1789, &c:

" To Messrs. Dorset, Johnson, and Co.

" CHARLES LONG."

Letter from Messrs. Dorset, Johnson, and Co. to Charles Long, Esq. 5th May 1792, (App. C. 521.) viz.

" WE are honoured with your Letter of the 2d Current, desiring us to inform the Lords Commissioners of His Majesty's Treasury, whether the Sums charged in our Account as Expences upon the Bills drawn by Lieutenant Governor DesBarres, arise only from the expence of Protests and Interest at Five per Cent. as stated in their Lordships Letter of the 19th December 1789, and we have the Honour of answering that, Executions having been levied upon and Possession obtained of Lieutenant Governor DesBarres Estates in consequence of several of the Protested Bills alluded to, their Lordships placed £.10,000 in our Hands, and, in their said Letter of the 19th December 1789, were pleased to desire that we should cause immediate Payment to be made of all such Bills as should be presented to us, or of such Sums as Governor DesBarres should admit to be justly due thereon, on Account of the Public Service in the Government of Cape Breton in the Years 1784, 1785, 1786 and 1787, requesting that we would use our Endeavours to promote a speedy and final Adjustment of the Business between the Parties, and further authorizing to make an Allowance to the Holders of said Bills for the Expence of noting and protesting together with an Interest at the rate of Five per Cent, from the time they became due to the Day of Payment, but not of any Sum or Account of Damages or Interest at a higher rate.

" In Compliance with their Lordships' Wishes, we undertook the Task, and concluded it in the best manner in our Power with infinite trouble. The Holders of the Bills at large objected to their being refused the Damages which the Law of the Land allows upon such Protested Bills, alleging they had suffered much more by the Want of their Payment for so long a time and their Exertions to obtain it, and it had nearly ended in Actions at Law. We succeeded, however at last in persuading those, who had taken no steps at Law, to accept of the Expence of noting and protesting and of Interest at Five per Cent. as stated in the Account, chiefly on the Hardship of making a Public Officer, who had already suffered so much in the Course of his Duty, to pay like a private Trader. But those, who were in Possession of Governor DesBarres' Estates and Property to an Amount infinitely higher than that of the Bills, absolutely refused to abate a Farthing of the Principal, Expence of noting and protesting, Interest, Damages, and Expence of Suit in seizing the same, declaring they only called to be informed, whether the same would be allowed, as they would much rather, and were determined otherwise to, hold what they had seized.

" Under these Circumstances, as the time for Redemption was nearly expired, and Lieutenant Governor DesBarres ardently urged the Loss he had already sustained in the Destruction of the Cattle leased with the Lands and the universal Derangement of the Tenants and Estates, we had no Choice, but, under the Spirit and Terms of their Lordships said Letter to settle the same by Arbitration, where the Demand seemed to be enormous, or otherwise where it appeared to tend most to Economy, and the whole was barely finished before the Expiry of the Redemption. The Articles of Expence No. 44 & 45, fall under this Description, together with that relating to Mr. Sparrow, who brought new Charges, amounting to several thousand Pounds and more against the Service which Lieutenant Governor DesBarres refused; whereupon he was arrested, and an Arbitration took place, which took up nearly Two Years, for the Necessity of which reference may be had to the Arbitrators, who, we understand, have addressed their Lordships thereupon, &c.

" To Charles Long, Esq."

" DORSET JOHNSON and CO."

count a List of residue Bills and Demands, the Payment of which had been claimed of them and remained unliquidated, amounting, exclusive of Interests and Expences, to £.6120 9s. 1d.

IN the mean time, DesBarres incessantly urged his Right to be furnished with Official Copies of, and to be tried upon, the Accusations, alledged by the Secretary of State in his Dispatch of the 30th November 1789, to have been received against him, for the specific purpose of answering which and of explaining the Transactions which had taken place, and justifying his Conduct as Lieutenant Governor of Cape Breton, His Majesty had thought fit that he should come to England. He hoped that the Proofs of his Innocence, which every Inquiry had furnished (126), might induce taking up the Matter; and on the 17th of September 1791 he addressed a Requisition thereupon to Mr. Dundas, who had succeeded Lord Grenville in the Secretary of State's Office (127).

(126) Among others particularly—The Allegations and Proceedings of Lieutenant Drummond, Messrs. Champion and Dickason, and others, in support of unjust Claims against Government, which were acted upon at the Treasury in 1787; together with the subsequent Report, from the Comptrollers of the Army Accounts, thereon in 1790.—The Confession of Lieutenant Hurd, on the atrocious Fabrication with forged Signatures, delivered by him into the Secretary of State's Office.—The Requisition, from the Arbitrators (Sir William Dolben, Sir Herbert Mackworth, &c.) on their Investigation of DesBarres's Conduct during his Administration of the Government of Cape Breton, addressed to the Lords of His Majesty's Treasury.

(127) Letter from DesBarres to His Majesty's Secretary of State, dated 17th September 1791, (App. B. 96.) viz.

"AN Officer, who has faithfully and usefully served his Country Thirty-five Years with the Esteem of the most exalted Characters in it, and the formal Approbation of his Sovereign, has the Honour of addressing this Letter to you. In order to explain more fully the Causes of it, I might offer Copies of a Variety of Letters addressed to the Department; but that of my last to Lord Grenville will suffice to give an Idea, as far as is necessary for the present, of my Injuries [a]. Insulted and resisted, as I have publicly been on the Spot in the Government of Cape Breton, by a Faction of Officers whose Conduct has rendered them unworthy of being trusted with Public Objects [b], and accused as I have been, to the Ruin of my Character and Fortune, I am by the British Constitution entitled to a Trial.

"And, laying aside the Consideration of all other Distinctions but those on which we stand by the Constitution, I, a British Subject and a British Officer, claim at your Hand that Justice, for doing which you are placed in a transcendent Situation by the Constitution—to be informed of the Accusations against me, to know my Accusers, to have an impartial Trial, and to know when I am to be tried. For this, I have attended in vain upwards of Three Years with unexampled Patience, and without once offering to lay my Sufferings at the Feet of my Gracious Sovereign—though, not a single Step has been taken against any other Officer in the mean time, without his being furnished with a Transcript of his Accusation, and confronted with his Accusers. It is not in Nature that my Rights and Feelings can permit me much longer to be passive.

"I ask no Favour, but the Severity of an impartial Scrutiny and to suffer, if I am guilty: Otherwise, to be indemnified, and my unjust Accusers dealt with according to their Demerits. And, in the mean time, as a thick Veil has been thrown over the Truth of every Point of my Concerns, that you will cautious of trusting but to your own just conception of my Requisition, and jealous of any Person or Object, public or private, tending to pre-judge me or wave the Necessity or Propriety of my Trial: which must be acknowledged to be my undeniable Right, while the British Constitution is professed to be the Rule of Government; though, I were as guilty as I am innocent. This is a delicate Subject, which I could wish to be dispensed from urging further. It is so fair, so interesting—even to Government, that it is in full Confidence I take leave to prefer it to a Personage, than whom, I must hope, none can have better Ideas of Justice, Law, and Policy.

"I also take leave to subjoin a List of Papers of which I entreat you will be pleased to order Official Copies to be delivered to me [c]. Supremely anxious for the speedy communication of your Determination, I have the honour to be with profound respect, &c.

Right Hon. Henry Dundas, &c. &c. &c."

J. F. W. DESBARRES."

(a) Letter to LORD GRENVILLE from DesBarres, dated 5th March 1791. (App. B. 93.) viz.

"APPLYING now as an Officer, labouring and exhausted under the most cruel and unmerited Hardships, on the Score of having done my Duty with ardent Industry and strict Fidelity, I feel it necessary to State the Result of my similar Instances to your Predecessor, in order to give so much of an Idea of my Case as may be requisite for the present, and to shew the Cause of not having renewed them earlier to your Lordship, from whose universal Character of Attention, Decision, and Impartiality, I cannot but entertain a well grounded Hope of receiving Justice.

"In the year 1787, I was honoured with a Dispatch from Lord Sydney, dated the 19th Nov. 1786, founded on the Misrepresentations of interested Persons, and intimating, that, from Measures which had been pursued in the Government of Cape Breton, and Complaints which had in consequence been exhibited against me, many Doubts had been entertained of the Rectitude of my Conduct; Upon which account His Majesty had thought fit, that his Lordship should signify to me His Royal Commands for my Return to England as soon as possible, leaving the Island in the Charge of the Senior Counsellor until such Time as I might return thither, &c. I also received another, Dated 5th April 1787, acquainting that His Majesty had been pleased to appoint Lieutenant Colonel Macarwick, to act as Lieutenant Governor of the Island of Cape Breton during my absence.

"While this Measure was determining here, the further Payment of the Bills I had been all along in the Course of drawing for the Service which I had been sent there to execute, was stopt, and the Holders of these Bills, some of whom, (from private Views and my Resistance to

their Impositions, had been extremely assiduous and received much attention in misrepresenting me) not only took all the moveable Effects I was possessed of in Pledge from me; but they also seized and dismantled, to treble the value of their Claims, Estates which I had brought to a very advanced Stage of Settlement in Nova Scotia and remained my sole Dependence, after Losses formerly sustained in the Service, which, though recommended by the Privy Council and honourably approved of by His Majesty, have never been compensated, unless inadequately through the Lieutenant Government of Cape Breton, if even I had been supported in it. In order to aggravate the Umbrage in the Public Offices, it was given out that I should not land in England, but withdraw with my alleged spoils to some foreign Country. Strange to tell! this was credited in the Public Offices, and particularly in the One, which ought to have been the most cautious, as it was the Channel to all the others, and every one in it knew me and that, after long acquaintance, I was in esteem with the first Ranks, Abilities and Probity, in the Nation. In order to disable me for ever from extricating and vindicating my Character and Property, Steps had been taken for intercepting, and throwing, me in Goal, the moment I should set a Foot on British Ground. Thus misrepresented and and thus doomed, I arrived in England in April 1788, and, left the provident Ardor of the Holders of the Bills should induce them to attempt depriving me of the Power of soliciting Justice to them and myself, I had taken Measures for getting into a Sanctuary. I had not much Time to look around me in this Situation, when I discovered Machinations against my Character and Fortune, and Scenes exceeding every Idea I had ever formed of the most horrid Depravity. I resolved to

Mr. Dundas answered with declining to take up the matter until the Accounts should be in consequence of Lord Sydney's Reference to the Treasury so far back as September 1786 and

" keep at a Distance from all my Acquaintances, even those I most respected and loved, until an Acquittal should recommend me with Dignity to their usual Interchange: Accordingly I requested being furnished with the Articles of Charge and the Names of the Accusers, together with Official Copies of all the relative Papers and Documents and that I might be tried without Delay—also that the Accounts of the Expenditures, since my Arrival in the Colony, rendered into Office, should be examined, and the Balance paid.

" Lord Sydney and Mr. Nepean readily promised all this without reserve: I waited and attended a long Time in vain for the Accomplishment. I renewed my Instances, and received similar Promises to no purpose: I repeated them: I remonstrated over, and over, and demanded my Right, as a Man and an Officer, of not being sacrificed unheard to an Impeachment for Crimes formally given into the Office, nor sent upon the World with an infamous Character, after having served His Majesty, upwards of thirty Years with His Royal Approbation, and that of the most distinguished of His Officers.

" I will spare your Lordship, for the present, the pain of perusing all the Detail of what passed on these Occasions so interesting to me: Happy, if, under the auspices of your Justice, I shall have been enabled to withhold it from the World, as well as to banish it from my own Memory for ever. I will only say, that in the Conclusion, Assurances were made, in the strongest Terms, that I was not superseded; that I actually continued to be Lieutenant Governor of Cape Breton, as Colonel Macarneck, was sent to act only during my absence, and that, as the Situation had been given in Reward for services, I might rely on every Justice being done to me: and, as Lord Sydney's Intentions were to have my Accounts settled in the first Instance, and then to recommend me to His Majesty for a Mark of the Royal Favor, it was a Matter of Indifference to me, which should happen to take place first—the Settlement of the Accounts, or the Trial, so as there might not be any considerable Delay in either; but having already urged in vain the latter by every possible Argument, and Claim of right, and Lord Sydney seeming inclined to give the Preference to the former, I resolved to acquiesce, particularly as it might be unpleasant to your Lordship to be addressed, upon a disagreeable and intricate subject so soon after your Accession to Office.

" Accordingly I applied at the Treasury, where a Sum of Money was ordered to be lodged in a Banking-house to pay the most pressing Bills in the Circle, and it was promised that the Liquidation of the whole Accounts would be referred to the proper Board without delay. This happened about sixteen months ago, and it has undoubtedly relieved me considerably in diminishing the Number of Claimants; but, my Lord, I had myself paid as many of the Bills as I could immediately after the stoppage: My personal, and real, Property had been seized for the Payment of others, and, under the peculiar Circumstances of the Island of Cape Breton and the Failure of the Supplies which had been promised to be sent, I was under the necessity of substituting my own credit and Resources on various occasions upon the Faith of the Support which had been held out to me; So, that, having since my Return to England nothing of all that which had ever devolved to me or I had acquired to support my encumbered situation, I have actually been long in Distress, looking forward in vain to the promised Ascertainment and Payment of my Accounts, for which no Order has yet been made at the Treasury, notwithstanding my repeated Solicitations and the constant Expressions of Acquiescence given thereupon. This is not all: Besides the Regard for Character, which every human Being brings into the World interwoven with the Essence of his Nature, I had been taught from the earliest Infancy to cherish the most exquisite Feelings for mine, and, there is no Measure of my Life but had the enhancing of it for part of its direct Object. Judge then, my Lord, from that Nobleness of Mind which is the undoubted Principle of your own Ardour in proceeding

" rapidly to establish a great Character in the Estimation of your Country, what I must have suffered for the Four elapsed Years, disgraced as an Officer and degraded as a Man, under Imputations equally mean as atrocious, in so much, that, though so conscious of my Innocence as to have fought out my Accusers by every means, and, even after every other Instance failed, to have provoked my Judges (if I may use the Expression) to hold my Trial, a Species of indignant Repugnancy prevented associating with my most esteemed Friends, or accepting their proffered Aid, until I should be enabled to appear again among them upon an equal Footing of Character, and I have been literally a Solitary Exile all the Time, in the midst of them, and of this great Metropolis. But my Frame has proved too frail to keep pace with the Emotions and Resolution of my mind: Every unavailing Attempt has cost a fit of Illness, in which nothing has recalled me from the brink of the Grave but all the Powers of every Faculty instinctively concentrating to form a New Resolution of not perishing under Infamy; but to live, and to live for vindicating and asserting my Character by all the Means which the Laws of Society, or of God and Nature, allow to an injured Man. I seriously feel that my Existence is chiefly supported by the Animation of these Sentiments.

" May I therefore be permitted hereby officially to request your Lordship will be pleased to appoint a Time for my Trial, and to obtain the Liquidation and Payment of my Public Accounts. I know, my Lord, it is my Right to demand, and your Duty to concede, it—but, I depend chiefly on those Qualities, which have acquired to you the Approbation and Esteem of all, for inducing you to see Justice done to an Officer in Points belonging to your Department: It has been mentioned abroad that I am no more Lieutenant Governor of Cape Breton, and therefore not entitled to a Trial before the Privy Council: it has also been said, that it is the King's Prerogative to dismiss an Officer without giving a Reason.

" But, my Lord, I have been officially assured I am still Lieutenant Governor of Cape Breton. Had I been dismissed without a Reason, it would not have prejudiced my Character or Fortune, but, if I have been dismissed, it was for the high Crimes and Misdemeanors alluded to in Lord Sydney's Dispatch, and contained in a Crimination formally given into the Office, and, what is most extraordinary, publicly hung up in the Office, as I have been told, for the Inspection of every One, until I arrived in England, when it was taken down.—A Copy of it, first promised to me, and then refused: Not only this; but the One of my Accusers who delivered it into the Office was sent out of the way upon a distant service, while I was permitted to exhaust myself in vain with soliciting what I am persuaded His Majesty never intended to be denied to me, and what is the Right of every Subject, and every accused Officer; or indeed sad must be the Case of Officers in being liable to be sent upon the World without being heard, and without a Character upon the Insinuations of every unprincipled Conspiracy—Nor can it redound to the Interest, or Honour, of the Service to introduce a Precedent of the Nature, and I must cherish the Hope of your Lordship's Justice and Policy in indulging my Prayer. I have the Honour to be with great respect, &c.

" Right Hon. Lord Grenville,

" J. F. W. DESBARRES."

[6] Vide: App. B. 217 to 222, 227. C. 5, 6, 8, 41 to 45, 52 to 76, 82, 84, 85, 93, 139, 140, 155 to 158 to 158, 166 to 174, 177 to 210, 348 to 352, 358, 365 to 367, 397, 398, 422 to 427, 433, 434, 436 to 438, 466, 468 to 470, 498 to 513. Also Minutes of Council, and Pages, 25, 26, 37 to 41, 57 to 60.

[7] The Papers mentioned in this List were—The Remonstrance and Petition, with all the Complaints which, he had heard, had been delivered into the Secretary of State's Office.

February 1789, be settled and advised and authorised DesBarres to press for the Settlement accordingly (128).

DesBarres had direly felt already the consequences of referring him to the Treasury, before a Trial of the formal Accusations and of all the other calumnious Matter upon which the Secretary of State's Office and the Treasury had acted, and he considered the remanding him there, under the same Circumstances, to be an Inversion of the Order of Justice. There being no Recourse, however, but to go where he was arbitrarily driven, he returned to the Treasury, to try the Effect of the Readiness and Earnestness Mr. Dundas had seemed to profess. Upon resuming the Applications there, it was signified that the Account and Vouchers which he had Two Years before attended Mr. Steele in collating would be collected and transmitted to the Board of the Commissioners for auditing the Public Accounts, with an Order for proceeding to settle them without Delay.—A Month had elapsed, when he received a Letter ordering him to lay the Account and Vouchers before them.

It was with no small Surprise he received this Letter, which, notwithstanding what had passed between him and the Office for several Weeks, before and had been fully acknowledged there on

(128) Letter from the Right Hon. Henry Dundas to DesBarres, dated Whitehall, 26th September 1791, (App. A. 64.) viz.

" I HAVE received your Letter of the 17th of September with its Inclosures. When I was appointed to my present Situation, Lord Grenville put into my Hands the Letter he had from you, of date the 5th of March, and likewise a Memorial transmitted to him by the Duke of Richmond (a). Upon enquiring into the State of the Business, I found that as far back as the 16th September 1786, an Official Letter was wrote from this Office to the Lords Commissioners of the Treasury, respecting your Accounts when Lieutenant Governor of Cape Breton, and another Letter was wrote upon the same Subject, bearing Date, the 21st February, 1789. While the Business is in this State, it is impossible for me to resume the Consideration of any Part of it. I shall transmit a Copy of the Letters I have just received from you to the Lords Commissioners of the Treasury, in order to warrant on your Part a Pressure for a speedy Decision. It is some time since I verbally stated to Mr. Long, the substance of what I have now wrote to you, &c."

[a] Vide Letter to the DUKE of RICHMOND from DesBarres, dated 19th February 1791 (App. B. 92) viz:

" The high Veneration I entertain of your Grace's Love of Justice makes me consider, as a most gratifying Circumstance the Permission which I am informed by Mr. Smith you are pleased to allow me, of submitting a brief outline of my Case to your Notice.

" To a Mind turned for Observation and Reflection, the various Scenes in the long Course of Service I have been employed upon could not fail affording much Subject, and I considered it to be my Duty, as an Officer, occasionally to lay before His Majesty's Ministers such Points as appeared to me susceptible of Improvement for the National Advantage. Among others of that tendency, I had prepared the suggestion of a Measure peculiarly applicable to this great Maritime Country, and productive of very important Advantages to His Majesty's Service and Benefit to Navigation and Commerce, the Execution of which I was led, from Lord Howe's high Approbation thereof and his Disposition of employing my humble Talents usefully, to expect the Honour of conducting in 1784; But in the mean time, Ministry coming to a Resolution of forming a Government and carrying on the Settlement of the Island of Cape Breton, the Utility and Expediency of which I had also some Years before humbly suggested, and having been pleased to recommend me to His Majesty for directing the various Operations of it, I relinquished the Prospect of more solid and permanent Benefit to myself from his Lordships's Intentions.

" I had previously furnished an Estimate of the Expence of settling, and erecting Cape Breton into a separate Government; this was done upon a Scale which, I conceived, might prove adequate to the Object. On being appointed to the Government of the Colony, I had the Honour in July 1784, of kissing His Majesty's Hand. It was resolved that I should be invested with the Command of the Troops to be stationed there, and in the contiguous Island of St. John: Accordingly, a Warrant was directed to me authorising me to appoint General Courts Martial, of which none under the Rank of a Field Officer should be President, for the Punishment of any Officer, or Soldier, for Mutiny, Desertion or any other Offences against Military Discipline, and I was furnished with the Orders for the conducting of the Hospitals, Pay and Cloathing and all other Military Concerns, which come under the Inspection of a Commander in Chief: Afterwards the Secretary at War (Sir George Yonge) expressed a wish of my acquiescing in the Chief Command being referred to General Campbell for the short Time he had to continue in America,

" to which, from my past experience, I am sorry to say, that I readily acquiesced.

" I considered the Motive of my Appointment to have arisen, not only from the great Pains it was known I had taken to be well informed of the nature of, and every circumstance respecting that Country and from the Experience I had acquired in forming Settlements in the neighbouring Province of Nova Scotia; but also as a Mark of His Majesty's Royal Favour for my Services and Labours, recommended in the Reports, as well of the Lords Commissioners of the Admiralty as of the Lords of the Privy Council and graciously approved in the Royal Confirmation thereof: and I construed the idea of joining the Military to the Civil Command, as obviously intended to compensate the Feelings of my retrospective Disappointments, and a prelude to the conferring the Rank which I had lost by being employed on the Execution of an arduous and difficult Work, which (as expressed in the Reports) must be productive of great Benefit and Utility, not only to His Majesty's Service, but to the Public in general.

" Under these Ideas, I embraced the Situation with the most perfect Satisfaction and Gratitude, for the Justice so far to be done to me, as well as with sanguine Hopes animated by ardent Zeal, that, in promoting national Advantages, I should enjoy the Support of Government and His Majesty's Approbation, in a Degree proportionate to the Success of my faithful exertions: National Advantages which obviously appeared, from the following cursory View of the Island of Cape Breton—containing 2,233,500 Acres of Land, the chief Part of which is equally fit for Culture, as any in America:—covered with all the Species of useful Timber common to the Provinces lying North of New York—abounding in every Temptation of the Mineral Kingdom—in one Part almost entirely intersected, and all around its Coast, indented with safe and spacious Harbours, filled with all the Variety of Fishes which are to be found in the North American Seas—so situated as to form at the same Time, the Key to the Gulph and River of St. Lawrence, and to the immense Countries above them, as well as an intermediate Station between Europe and the West Indies, and to conduce to the Command of the Banks of Newfoundland equally as the Island of that Name:—susceptible of being rendered impregnable with any Degree of Genius and Fidelity, in Military Design and Architecture—being, in fine, the Post which France valued most of all the ever held in North America, upon which she had bestowed the greatest Attention in Proportion to the short Period of her Tenure thereof, after

" the Discovery of its Importance: Staking upon it all her Hopes, as well of recovering what she had lost, as of preserving what remained: And from which she had derived, in that short Period, greater Profits, and more solid Advantages, than from all her other transatlantic Territories in a Century, by the Annual Employment of 300 decked Vessels and 1500 Shalloops, navigated by 11,400 Seamen, which produced every Season above 660,000 Quintals of Cod Fish, of the average Value of £.412,400; to say nothing of the Proceeds of Oil, of the Sea Cow, Salmon, Herring, and Mackerel, Fisheries, &c: &c: capable of being superiorly enhanced, in the more energetic Hands of Britons.

" Having received my Commission and Instructions, expressing the highest Anxiety for the speedy Settlement of the Colony, and Assurances that the Encouragements and Bounties given to the Loyalists in the other Colonies would be as amply extended to those settling in Cape Breton, I was ordered away in great haste to meet and accommodate an Association of about Five thousand Loyalists, for whose Removal to Cape Breton Government had entered into a Treaty with their Agent.—The Loyalists, and disbanded Troops, of all Ranks, and Descriptions, settling in the Provinces of Quebec, Nova Scotia, New Brunswick, and the Island of St. John, were allowed Provisions for Three Years and Clothing for themselves and their Families, Lumber and Materials for erecting and finishing ordinary Farm Buildings, Tools and Implements for clearing the Land and laying down the Crops thereafter, &c: &c:

" On my Arrival at the Island in December 1784, I found, that, of the number of the Associated Loyalists then expected, very few had arrived; but many other Settlers had accrued from other Quarters.—The Royal Instructions directed Proclamations to be issued, descriptive of the natural Advantages of the Colony for the Inducement of Settlers: This brought on a considerable Accession, so that between Three and Four thousand People, had settled in the Infant Colony.—In a Country however cherished and flourishing formerly; yet laying near Thirty Years in a state totally dismantled, and having a long and severe Winter, much Difficulty was to be encountered. The bulk of the People could not fail being of the neediest Class with respect to Ability of obtaining Provisions and Clothing, of erecting Habitations and clearing the Woods for the purpose of raising a Pittance of Provisions: They must in fact be furnished, at least, for Two or Three Years, with all the Aids which Government was actually in the Course of allowing to the like Description of Persons, even, in the established Colonies.—The first pressing Idea was, to take Measures, for preserving by means of Shelter from the Snow and Winds the Lives of fellow Creatures, and those, His Majesty's liege Subjects, to find Food, for Nine in Ten of the whole, and, what was not a little embarrassing on the score of the greater Deference requisite, I had to provide Quarters for Six Companies of Troops expected for Garrison Duty. The Situation of the Officers of the Civil Establishment was also to be immediately attended to, and Accommodation for doing the Public Business was wanted. Every one looked up to me, and, but for Articles which I had directed to be shipped from London for my own Use, and which had happened, in the extreme hurry to have been more plentifully laid in than I had ordered: and for some further Exertions I made on the Spot under no small Disadvantage to myself, we must all have inevitably perished: Either there was no farther thought, after I had been sent off, of the Assurances which had been made; or those, who had received the Orders, made it their Business to disappoint me or neglect them.—It may seem strange; but I assert it as an undoubted and notorious Fact which can be easily proved, that the Government and Inhabitants of Nova Scotia, long accustomed to enjoy exclusively the unbounded Expenditure of what may be styled the Spoils of the Mother Country, were hurt at the Disfranchisement of their Province, and begrudged the Prospect of any participating the Public Bounty but under their own Auspices: This did not proceed from any Tincture of personal Disregard to me; but from the Absence of Principle, by which interested Men will sacrifice every Tie to the Jealousy of their own Views. An Umbrage arose also in the Military Department, notwithstanding my entire Silence and Reserve respecting the exclusive Powers delegated to me: And in no Point have I been indulged there with that Goodwill, Countenance, and Assistance, which, as due to the Service of our common Sovereign, for the Benefit of our common Country, might have been expected, which might have been easily administered, without Departure from Official Rules, or the Spirit of Orders and of the Service, and which would have prevented all the Embarrassments, Distress, and great Part of the Expence which ensued.

" I did my best in the Course of the first hard Winter—hard to me in every sense of the Word, in providing, as well as Circumstances would admit, for the Objects alluded to. When the Spring came, the Site of the Town was cleared, the Town Lots were surveyed and laid out, Locations of Land were made, and the Buildings were commenced and subsequently finished upon the Plans given into Office.—I transmitted a State of our Situation, together with a Report of my Proceedings, and an Estimate of the Current Expence of what appeared to me necessary to be done, depending, that the promised Supplies, particularly the Provisions, would infallibly arrive with the advance of the Season, and I proposed at the same time a Method, conducive to perspicuity in drawing for the reimbursement of all manner of occasionally necessary Expenditure.—And that was, to give Bills on my personal Agent, in favour of those who supplied the Means, and to transmit Quarterly-Accounts to the Office of the Part of the Expence chargeable to the Public, in order to be paid to the Agent. In this manner, I drew £.3000 on the Treasury, which were paid to the Agent, who wrote that my Bills would be honoured and every suitable Instruction was to be sent to me.

" It were too tedious to trouble your Grace with the further Detail, which would be necessary for giving an adequate idea of my situation and Disappointments. I will only entreat Permission to add that neither the promised Supplies, nor farther Instructions, were sent during the three years I continued there, and, as I expected them every Week, Month, and Season, I was led to proceed in the mean time upon my general Instructions and the Ideas communicated to me at my Departure from England: I was under the necessity of collecting Provisions, to save the lower People from perishing, from all Quarters, under the greater Disadvantage, that, as I expected a Supply from England, I could not venture to lay in a sufficient Quantity at any one Time, nor to take these Measures for procuring them on the best Terms that I could otherwise have done. My own Resources and Credit were interposed upon the Faith of the Promises that my Bills would be paid in the manner they were in the outset, and upon every pressing Occasion, all my own Stores and Conveniences were distributed without Account; so, that I was often at as much Inconvenience as any.—Still, what may seem strange, the whole Expence will be found upon Investigation, to have been less in Proportion, than for any Thing similar done for Government, either in any former Period, or in our present Colonies in the same Line of Service, and, in that short space, the Trade of the Colony was brought to the Length of exporting £.40,000, and it would have exceeded £.200,000 annually, in five Years more, but for what followed, which has not only defaced and rendered useless all that has been executed and expended; but nipped the farther Progress in the Bud.

" It proceeded from the unwarrantable Exertions of Jealousy on the Part of the Governor, Commanding General, Officers and Traders of Nova Scotia, and of the Military Detachment stationed in Cape Breton, which the Officers given to me took advantage of and improved for giving me every Opposition on the Spot. These Officers, consisting of some of the most troublesome and degraded Characters of the Denomination of American Loyalists, preferred a Crimination against me to Lord Sydney: My Bills on the Treasury were dishonoured, and I was suddenly called Home to answer.

" After my Arrival, not all my Intreaties, Instances, and Arguments, could obtain a Perusal of my Accusation, or the Names of my Accusers;—Nor a Trial—Nor any Settlement of my Accounts. In the mean time, the Holders of the protested Bills seized my Property every where, some of them taking enormous Advantages. My Character became the inconsiderate Sport of the World, my Military Promotion was at a Stand, I was reduced to betake myself to a Sanctuary, I have lost my Health, and have been frequently at the point of expiring, and I am completely miserable in my Feelings, on account of my Character, which it defies to extort an Opportunity of vindicating by Trial.

" It is true, after Two Years, the Treasury lodged a Sum to account in Banker's Hands for paying the protested Bills, which has afforded some Relief: but I still lie out of my own Advances, which involve all I have in the World: My Accounts are unsettled and my Character under an universal Slurr. I have often applied in vain for a Settlement and Trial, and I fear being reduced to an Appeal with a Story and clear Documents that must astonish: and that, without much more Loss of Time, for, if I delay, it is likely Death will prevent me, &c:

" J. F. W. DESBARRES."

" To His Grace the Duke of Richmond."

the Subject, implied that the Account and Vouchers were in his Hands, instead of sending to the Board of Auditors an Avowal of the same having been in the Hands of the Treasury and collated by Mr. Steele, but not returned to him (129). He remonstrated accordingly, and also desired to be informed whether it was meant he should at the same Time lay before the Commissioners the Account of his Losses in the Seizure of his Property through the stoppage of the Payment at the Treasury, &c. or that the same would be considered subsequently. But he received no Answer (130).—At last, a great Part of the Vouchers were found at the Treasury, which were offered to DesBarres, in order to be delivered by him to the Auditor's Office; but he declined accepting of them, unless they should be returned complete as he had originally given them; and they

(129) Letter from the Secretary of the Treasury to DesBarres, dated 6th October 1791, (App. 65.) viz:

"I AM commanded by the Lords Commissioners of His Majesty's Treasury to desire that you will lay, your Account and Vouchers of Money expended by you during the Time of your Appointment of Lieutenant Governor Cape Breton, before the Commissioners for auditing the Public Accounts, to whom my Lords have given Directions to proceed upon the Examination of the same, with as little Delay as possible. &c:

"CHARLES LONG."

(130) Letter to the Secretary of the Treasury from DesBarres, dated 26th November 1791, (App. B. 101) viz:

"I RECEIVED, after your Departure from Town, your Letter of the 6th October, signifying to me the Desire of the Lords Commissioners of His Majesty's Treasury for laying the Account and Vouchers of the Money expended by me for the Public Service in Cape Breton, before the Commissioners for auditing the Public Accounts. Upon a Reference which had been made to a Part of these Vouchers some Weeks before in the Arbitration with Mr. Sparrow, one of the Arbitrators applied to Mr. Steele at the Treasury, but could find no traces of them. I, then, had the Honour of repeatedly mentioning to you, that I had periodically transmitted the Original Vouchers with the relative Accounts to Office from Cape Breton, and, successively the Duplicates of the same, reserving the Triplicates in my own Hands against a future Settlement:—that, after my Return to England, Mr. Nepean, representing that a considerable Part of them had been mislaid or lost in the Offices, desired I should, with a View to his speedy Examination and Settlement of the Accounts, replace and complete the Vouchers from my Triplicates, after which they were examined and remained long in the hands of Mr. Nepean, by whom they were afterwards sent to the Treasury, where I personally attended Mr. Steele in another Examination of them, and he declared himself perfectly satisfied. Upon one of these Occasions, yourself was pleased to tell me, that about the time of your coming into Office, all the Papers relative to my Accounts had been sent to Mr. Steele's House, as, having already taken so much Pains to be acquainted with the Matters, he had undertaken to see them through.

"Upon perusing your Letter, I considered the desiring me to lay before the Auditors the Account and Vouchers, which I had delivered into Office and had not been returned to me, to be a Mistake, and I went to Somerset House to inquire if they had been sent there from the Office; but was only informed that a Letter had been directed to the Auditors of similar Import to mine in that respect: whereupon, I recurred to the Treasury and, in your absence, repeated the above Circumstances to Mr. Ramus, adding that the last I had seen of them was in the Autumn of 1789, when Mr. Steele secluded himself with me in the Board Room for several Mornings in examining them, which Mr. Ramus acknowledged he recollected, and he accordingly promised that he would enquire for them there, or in the Office above, and officially send them to the Auditors. After your Return to Town, I had the Honour of waiting on you, and had begun to recapitulate the Circumstances of the Difficulty, when you was pleased to cut it short with expressing your Concern at the Papers not having been sent, as you found them lying upon your Table in the State you had left them, but they should be forwarded without delay. I went in due time to the Auditor's Office and, finding nothing there, I returned to the Treasury, where Mr. Ramus told me I might depend upon their being sent immediately. In some Days thereafter, I received a Message to attend him, and he shewed a Set of Accounts which had been long under the Consideration of Mr. Nepean and Mr. Steele, saying he would send them to me, in order to be delivered by myself to the Auditors; but the Vouchers could not be found.

"I observed that the Set of the Account were of no consequence, as I could, with whatever Trouble, make them for the Auditors, and I was readily disposed to render any Thing easy which might be in my Power; but, past Experience had suggested to be cautious of every Shadow—that considering that it was well known I had rendered so great a Part of my Triplicates into the Office, I was by no means reconciled to the Form, which expressed that I was to deliver them to the Auditors, unless they were returned to me, and I was apprehensive, lest the permitting myself to be drawn into the Wake of such Order would be giving into a Presumption of their having been restored. He replied no such Thing was intended, every Justice would be done, and the Accounts would certainly pass. Accordingly, on Saturday, a Treasury Messenger brought the Set of the Accounts here, and I went to the Auditor's Office.

"Upon my mentioning the Case of the Vouchers, the Inspector informed me that the Board could not proceed one Step without them—that, according to the Act of Parliament, certain Proofs were necessary in the Case of the Vouchers, which, if satisfactory to the Court of Exchequer, might supply the Defect.

"Now, Sir, thus do Matters stand with me. I know not what to do. I take leave to consider it to be the Part of the Office to set this Matter to rights. I made a Requisition for a Trial Six Weeks ago to the present Secretary of State, to which he was pleased to return an Answer, giving to understand that all my Affairs are a Stand, only, by the Non Settlement of the Accounts which have been severally transmitted to the Treasury Six, and Three, Years ago, expressing also an earnest Desire for his having it accordingly in his Power to resume the Consideration of them. I cannot avoid objecting, as well to the Non Restitution of the Vouchers, as to the Implication in the Letter of their being in my Possession: Your own equitable Feelings will lead you to commiserate as a Man what I have suffered these Six Years: The plainest Things in the World have been thrown into inextricable Confusion, by not taking any One Straight Step respecting them from the Beginning, and the placing every Obstacle in their Way; and that Confusion becomes an Argument of Prejudice against me, who have been innocent thereof. It is a peculiar Part of my Misfortune that I cannot get a Jot forward without Importunity. It shall be extremely unpleasant to myself to have to recur to the Secretary of State, if upon his Return [Mr. Dundas had gone to Scotland] Matters are not put into a Train of Proceedure; But, what is a Man to do, whose Honour, Happiness, Fortune, and Reputation, are at Stake, under Oppression?

"There is a Feature in my Affairs, which, this may perhaps be a proper time to mention: The Refusal of my Drafts, as well as all the Circumstances attending the Case, brought upon me an Accumulation of the Protested Bills Damages and Interests with a Variety of Losses and Expences, by Delays, laying out of my own, and borrowing from others, Money, and particularly by the Seizure and Derangement of my Estates, in so much, that, if my Accounts were paid this Day, I am still a ruined Man. Surely, Indemnification is due to me. I wish to be informed, in case the Investigation before the Auditors proceeds, whether an Account of these Losses is also to be submitted to them at the same Time, or to be referred to a future Time, &c:

"To Charles Long, Esq. Secretary of the Treasury.

J. F. W. DESBARRES."

were sent directly from the Treasury to the Auditor's Office.—Upon inspecting them, the Commissioners directed to him Queries, or a Demand, for such of them as they found to be missing (131), and, in February following, signified to him, that *they could not make Allowance for any Sums, the Vouchers for which are lost, without an Order from the Court of Exchequer, and that therefore he might proceed when, and in such Manner as he should be advised, to obtain such an Order by Application to the Court of Exchequer, it being his Duty, either to furnish to their Board, Vouchers for each Article of his Account, or to enable them, by the Authority of the Court of Exchequer, to make the Allowances which he claimed, in case of his Vouchers being lost or destroyed* (132). DesBarres accordingly moved for a Rule respecting them, which was not made absolute until the very last Moment of the Sittings after Hilary Term 1792, nearly five Months after the remanding him to the Treasury (133). The Rule was immediately intimated to the said Commissioners, who directed farther Queries, for the Explanation of the Merits of the Account.

Hopes had been given of a speedy Report after the Queries were answered, and DesBarres flattered himself in the Idea of being at Liberty to repair to America in the Spring, in order, as well to recover and arrange the Estates and Property in Nova Scotia which had been seized and dismantled for the Public Debt, as to restore the Colony of Cape Breton which had been daily declining through Maladministration in his Absence. But, while he thus attended for a Report during Three Months in which no Queries were issued, the Foundation of other Proceedings was laying (in the secret Manner of that Board) and a great number of Queries were afterwards issued; Many of which, could not be said to arise from the Accounts; but were clearly the Offspring of industrious Slander communicated from the most polluted Sources (134). The very first of them required

(131) Letter from the Inspector General of the Public Accounts to DesBarres, dated Office for auditing the Public Accounts, Somerset Place, 23d December 1791, (App. A. 66.) viz.

"I AM directed by the Commissioners for auditing the Public Accounts to transmit to you the enclosed List of Queries on your Account of Expenditures as Lieutenant Governor of Cape Breton, and to inform you, that, you will be questioned upon Oath concerning the Truth of the Answers you shall return thereto, as also on any other Matter, which the Commissioners may think proper to inquire of relative to your said Account, &c:

"To Lieutenant Governor DesBarres."

"JOHN WIGGLESWORTH."

Vide also, List (enclosed in the above Letter) of Queries, No. 1 to 81, alluding to the missing Vouchers, severally. And DesBarres' Answers thereto, dated 5 January 1792, (App. B. 103.)

(132) Letter from the Inspector General of the Public Accounts to DesBarres, dated Office for auditing the Public Accounts 2d February 1791, (App. A. 68.) viz.

"IN answer to your Letter of the 27th Ultimo, I am directed by the Commissioners for auditing the Public Accounts to inform you, that they cannot make Allowance in your Account for any Sums, the Vouchers for which are lost, without an Order from the Court of Exchequer, and that therefore you will proceed when, and in such Manner as you may be advised, to obtain such an Order by Application to the Court of Exchequer, it being your Duty, either to furnish to this Board, Vouchers for each Article of your Account, or to enable the Commissioners, by the Authority of the Court of Exchequer, to make the Allowances which you claim, in case of your Vouchers being lost or destroyed, &c.

"To Lieutenant Governor DesBarres."

"JOHN WIGGLESWORTH."

(133) Vide Proceedings before the Court of Exchequer, also the following Affidavit (App. C. 465.) viz.

"IN THE EXCHEQUER. Roebuck Blake, of the Treasury Chambers, Whitehall, within the Liberty of Westminster, Gentleman, maketh Oath and faith that he is Assistant or Deputy Clerk of the Papers in His Majesty's Office of Treasury, and, as such, it is his Business to collect all Papers lying about the said Treasury that have been before the Board and in Use relative to Business there transacted with the Secretaries, and Chief and other Clerks, in the Treasury, and to sort and arrange the same in proper Departments appointed for the Reception thereof, so that a ready Resort may be had thereto, when any may be wanted. And this Deponent farther faith, that, in consequence of a Requisition from the Commissioners for auditing the Public Accounts to the Lord Commissioners of the Treasury to be furnished with the Vouchers to the Account of Governor DesBarres, which had been represented as having been left at the Treasury, he this Deponent searched among the Papers at the Treasury for the same, and having found a Bundle thereof, he, this Deponent, sent the same to the said Commissioners for auditing the Public Accounts. And this Deponent farther faith, that, afterwards having been informed that many of said Vouchers were still wanting, he, this Deponent, by the Direction of one of the Secretaries of the Treasury again searched among the Papers of the Treasury, in all such Places where such Vouchers were likely to be found, but this Deponent faith, that, after the most diligent Search, he was not able to find any Vouchers belonging to the Account of the said Governor DesBarres, besides such as he had before sent to the Commissioners for Auditing the Public Accounts, as aforesaid.

"Sworn in Court of Exchequer, 15th February, 1792."

"ROEBUCK BLAKE."

(134) While DesBarres called occasionally at the Office in expectation of hearing of the Report, he observed frequently in Attendance there, several Persons, whose Attempts and Perpetrations he had, in the Course of his Duty, been under the Necessity of reprobating and repressing, and other low Characters, incapable of furnishing any proper Light whatever on DesBarres Account and Measures, or who otherwise had proved their Unworthiness of any Credit: Such were Sparrow[a], Brooks [b], Nugent [c], Smith [d], Pitts [e], &c: [f] And there is also no doubt, but that the Influence and Impression of Reports and Allegations, made and transmitted by Mr. Macarmick and his Council, consisting of the refractory Officers, Authors and Subscribers of the Fabrication delivered into the Secretary of State by Lieutenant Hurd, had been communicated to the Board [g].

Information of a Transaction in his private Affairs, which had not only been misrepresented; but also, while it had no Relation whatever to the Public Accounts, could not, without the most violent Exertion, be strained to the most distant Connection with them (135): Some of them related to the Articles of Formal Accusation in the Public Offices (136): Others were the Slanders, which had been malignantly invented and retailed to the Secretary of State's Office and to the Treasury, and had been acted upon without Inquiry (137). A Part also related to certain Articles paid by the Treasury to Messrs. Handy and Ruffel, John Andrews and Nathaniel Clarke, together with about a Thousand Pounds issued to Mr. Roberts, and the Money paid by the Bankers for Expences and Interests on Protested Bills; all which were indiscriminately debited to him (138).

These Queries involving a considerable Extent of Subject, required diffuse Explanations and Details of Circumstances, Transactions and Events, which were accordingly furnished to the Board (139). In respect to the Monies improvidently debited to him, he *remonstrated against being charged with the Interests and Expences* which by Order of the Lords of the Treasury the Bankers had paid *on the Protested Bills* (140) arising from the Failure in the Support of the Colony, and from the

[a] SPARROW is the Person mentioned above, who, having been a Trader to Cape Breton, and seeing DesBarres depressed, by the Stoppage of Payment at the Treasury and the Conduct of the Secretary of State's Office, had taken advantage to make up inadmissible Claims against him as acting for Government, made Oath to the same, filled the Public Offices with new Slanders, boasted of confidential Communications with the Offices and of knowing the Intentions of Ministry respecting him, and threatened to exert all his Influence and Endeavours to ruin the Accounts. *Vide Evidence and Proceedings before the Arbitrators.*

[b] BROOKS had been employed in navigating a Small Vessel attached to the Public Service in Cape Breton. With this Vessel he ran away and absconded, for some time, employing her in Conjunction with an unfaithful Overseer in the Coal Mines in smuggling Coals to the French Island St. Pierre, and in carrying prohibited Goods from thence to Cape Breton. [The Requisition, for prosecuting him at Law for it, was evaded by the Attorney General, who supported him and the Overseer in this Misconduct, App. C. 170, 172, 355]. This Man afterwards taking Advantage, like others, of DesBarres' Situation, set up false Claims, for resisting which, which he became highly inveterate.

[c] NUGENT had been employed by Lieutenant Hurd as his Deputy. That he was a Party, as far as it had fallen to his share in the seditious Conduct of his Principal, is to be supposed of course. He had also been concerned in the smuggling Business with Brooks and the Overseer of the Coal Mines. After DesBarres' Departure, he had been employed by Mr. Macarmick in the Capacity of Surveyor General of Lands, and represented to have been concerned as a Tool in numerous Acts respecting the granting and Forfeiture of Lands, loudly complained of as oppressive. Since DesBarres' Return to England, an Account of surveying, pretended to have been executed by DesBarres' Orders had been transmitted, formally recommended by Mr. Macarmick and the Members of his Council. The Secretary of State referred it to DesBarres to report thereupon, who, considered it his Duty to deny his Approbation to it, as being false (*Vide Papers and Proceedings referred and Report thereon, App. C. 436. and 437*). Nugent, arriving in England, presented himself, or was sent for, to the Board of Auditors. DesBarres had frequently seen him there, and once in particular, he found him alone in one of the Chambers of the Office employed in perusing the Vouchers of the Account, though it was given out in the Auditor's Office that no Attention was paid to him, while he boasted to different Persons out of Doors of being supported at the Expence of the Treasury in order to furnish Materials for damning the Account.

[d] DOCTOR WILLIAM SMITH had been recommended by a Friend of DesBarres, shortly before his Departure from England in 1784,

as a Person of Talents labouring under great Distress. DesBarres humbly proposed him for, and His Majesty was pleased to bestow on him, the Appointment of Surgeon Physical on the Military Staff of Cape Breton. He had affected all along a sincere personal regard towards DesBarres, who also assisted him and testified every Attention in his Power. DesBarres, having early considered him to be a very weak Man, had naturally ascribed to that Weakness alone his Deviations. On his Return to England, he was surprised to find that this same Doctor Smith had in a most insidious manner traduced his Conduct and Measures, and become implacable; because his improper Designs had been reprov'd [*Vide: Doctor Smith's Propositions, to his Correspondents in England, for carrying on a Smuggling Trade and other similar Projects, &c. App. C. 522.*] And that his Name was among the Subscriptions to the vile Fabrication addressed to Lord Sydney, (though it was pretended he had done so in a moment of Inebriety, to which he had shewn himself greatly addicted) App. C. 360. *Vide also, his Letter Page 61.*

[e] The Person of the name of PITT was so low, that, it is astonishing it could be supposed that the Husband of DesBarres Cook Servant might be capable of affording any useful Lights whatever on his Public Accounts or Measures. However, this Man appears to have become more conspicuous afterwards, by a pretended Confidence from Messrs. Macarmick and Mathews. He was One of the Four undignified Characters who lent themselves in the collusive Transaction alluded to in Page 61.

[f] *Vide Letter from the Secretary of the Treasury to DesBarres of the 13th September 1789, "I must also trouble you to furnish me with a Description of the several Buildings, erected by your Orders at Cape Breton and contained in your Account, in order that I may write to Governor Macarmick agreeable to the Instructions which I received from Mr. Pitt."* Although DesBarres has not been indulged with any Communication of the Report, which Mr. Macarmick, in conjunction with the Authors of the atrocious Fabrication with forged Signatures alluded to, may have returned to the Treasury—no more than with that of other Documents, or clandestine Informations, which appear to have governed the Auditor's Proceedings; yet, he has been informed, from credible Sources, that Mr. Macarmick, in pursuance of the Order of Reference to him, had made a Selection of Carpenters, Masons, &c. who, upon Measurement of the respective Objects, gave in an Estimate of the Costs thereof, far beyond the Amount charged in the Account rendered. One of the Clerks in the Auditor's Office informed DesBarres that above Twenty or Thirty individuals of similar Credibility had attended there to declare on personalities against him.

(135) *Vide: Query, No. 82, and the Answer, App. B. 109.*

(136) *Vide: Queries, No. 84, 87, 88, 90, 92, and the Answers, App. B. 109.*

(137) *Vide: Queries, No. 83, 86, 88 to 94, 95, and the Answers, App. B. 109.*

(138) *Vide: Queries, No. 97 to 104, and the Answers, App. 109.*

(139) App. B. 109, Folio 1 to 87.

(140) *Vide: Page 63 and 65.*

Nonpayment of the Expenditures necessarily incurred therein: He objected against being charged with any Part of the several Sums paid for Bills to Messrs. Handy and Ruffel, Andrews, and Clarke, with which he had nothing to do (141): And he referred to Mr. Thomas of the Pay Office (Mr. Roberts Agent) for an Account the Money issued to Mr. Roberts. Mr. Thomas stated that himself had, in the Absence and behalf of Mr. Roberts, upon Orders from the Treasury dated 23d September and 10th November 1789, applied the Money in question to pay sundry Bills, which were not chargeable to DesBarres's Account (142). The Auditors required farther Explanation, nor would they make a Report until it should be furnished. On the 22d. of August they issued a Precept for Mr. Roberts to return on the 2d of October following an Account of the Expenditure of the Thousand Pounds which had been imprested to him. But Mr. Roberts was not to be found (143). After fruitless Inquiries to discover him, DesBarres moved at the Treasury for a Transcript of the Order for applying that Money, which verified the Statement given by Mr. Thomas (144). When Mr. Roberts was at last personally produced, he declared that he had before fully accounted to the Board of Auditors, for the Application of the said Thousand Pounds in Virtue of the Treasury Orders, and it appeared that owing solely to some Mistake at the Treasury, and the Auditors Office not recollecting that Mr. Roberts (the proper Accountant) had already accounted to themselves for it, and imposing upon DesBarres the oppressive Task of running up and down to clear up a Mystery, the solution of which was in their own Hands alone and could not possibly be in his, a Delay of many Months was occasioned, and which was reported to have arisen from pretended Confusion and Irregularity in the Account (145).

(141) App. B. 109, Fol. 84 to 87.

(142) App. B. 109, Fol. 80 to 83.

(143) App. A. 77, B. 113.

(144) Copy of the Treasury Orders, obtained on the 19th October, 1792. (App. B. 117 and 118.) viz.

" Treasury Chambers, 23 September, 1789. I am commanded by the Lords Commissioners of His Majesty's Treasury to direct you to pay, out of the Sum of £.1000 imprested to you by His Majesty's Warrant dated 9th April 1787, the following Bills, together with the Interest due thereon, to be calculated, from the Dates of the respective Protests to the first of September 1789, at the rate of Five per Centum per Annum, and the Charges of protesting, &c.

" Thomas Venture's Bill on Lieutenant Governor DesBarres', endorsed by Lieutenant Drummond	£ 525 0 0
" Ditto drawn on you, and endorsed by Lieutenant Drummond	55 0 0
" Ditto	50 0 0

" And My Lords desire you will acquaint them with the Amount of the Interests and Protests, when you have satisfied the Bills, &c:
" To William Roberts, Esq."

" GEO. ROSE."

" Treasury Chambers, 10th November, 1789. I am commanded by the Lords Commissioners of His Majesty's Treasury to direct you to pay, out of the Sum of £.1000, imprested to you by His Majesty's Warrant of the 9th April 1787, the following Bills together with the Interest thereon, to be calculated from the Dates of their respective Protests to the 9th of this Instant, at the rate of Five per Centum per Annum and the Charges of protesting, viz.

" Thomas Venture's Bill on you payable to Captain John Drummond, dated 8th November, 1785	£ 50 0 0
" Ditto	45 0 0

" And My Lords desire that you will acquaint them with the Amount of the Interests and Protests, when you have satisfied the Bills, &c.
" To William Roberts, Esq."

" THOMAS STEELE."

The Bills, paid in pursuance of the foregoing Orders, were on Account of the general Demand which Drummond had urged against Government in 1786, and which the Colonial Council had felt it incumbent to reprobate [Page 16 to 18]. These, and the other Bills also paid by Order of the Treasury to Messrs. Handy and Ruffel, John Andrews, and Nathaniel Clarke, were some of the Bills, alluded to in the Letter from the Secretary of the Treasury dated 30th January 1786 signifying, that *their Lordships could not give Directions for the Acceptance of the said Bills, as the same should have been drawn by the Governor, who is alone responsible for the proper Expenditure of the Money, and best able to explain to their Lordships the Necessity of the Service* [Vide Page 45.]. DesBarres, though, in constant Attendance at the Treasury in the Period of these Payments; yet nevertheless was quite uninformed therewith.

(145) Vide Appendix A. 80, also the following Letter which DesBarres addressed to Sir John Dick, on the 28th January 1793, on the Occasion (App. B. 126.) viz.

" ALTHOUGH, among the adverse Circumstances in which I am unmeritedly involved, I have to regret the one of feeling myself still at this Hour an entire Stranger to you; yet, the Consideration which some of my Friends have inspired of your Sentiments of Justice and Attachment to the Honour of His Majesty's Service and the Public Interests, induces me to take the Liberty of addressing you.

" In 1784, the Zeal and Public Utility of my Services during the preceeding Thirty Years had been recommended to, and approved of by, my Gracious Sovereign, as deserving some Mark of His Royal Favour, and I was honoured with His Majesty's Commission as Lieutenant Governor and Commander in Chief of Cape Breton. Under strong Assurance of Support, I set out in the fullest Confidence of exceeding, as I had in every preceeding Occurrence, the most sanguine Expectations from my faithful Exertions in accomplishing the difficult Task entrusted to me.—Arrived

During this painful Course, DesBarres had incessantly urged his Requisitions in vain for a Trial. Although the Secretary of State now declared that there existed no Complaints in his Office against him, and the Auditors, after the most minute and strict Scrutiny, also declared that they entertained no doubt whatever of the rectitude of the Account or of his Conduct; yet the Proceedings did not seem calculated to accelerate the Period of Justice (146). He was at length in-

"on the Spot, I did the best in my Power, and, in the Exigency, employed my own Means and Credit to support the Service. I represented the State of Affairs—transmitted Accounts of the Expence incurred, and Estimates of the Expence to be incurred, requesting Orders as to any Alteration in the Plan of proceeding which I had submitted, and I drew Bills upon Account thereof on the Treasury, which were paid and signified Approbation. I sent Home the Accounts and Vouchers periodically, and there were no Objections, either as to the Form or Matter, signified to me. In 1786, I sent the Examiner of the Public Accounts, in order to explain every Article respecting them. He remained above a Year in Attendance on the Public Offices here, and no mention as to the Form or Matter of the Accounts had been mentioned all the Time: On the contrary, he wrote to me that every Thing was right. After my Return to England, I kept Two of the Overseers here for a whole Year at my Expence, in order to explain any Matter which might be required; but, there being no Settlement of the Accounts, though it was constantly promised, they went away. The Accounts and Vouchers were collated by Mr. Steele at the Treasury with myself, and he declared them perfectly clear and regular.

"Last Summer you was pleased to declare to me in the Name of the Board, that there was no Doubt of the Rectitude of my Conduct and Accounts; but, Sir, I feel much hurt at understanding lately that the Delay of the Report is attributed to Confusion and Irregularity in them. In answer to this; if there is really any such, it ought not to be attributed to me; but to the Public Offices, for not having objected to the same, in season, as they were transmitted. But I consider myself entitled to deny the Charge: not only from what I feel myself; but also from the Circumstance of no such objection having been made to them until now, and also from the said Declaration of Mr. Steele: To this, I beg leave to add, that I do not find any one of the Queries directed to me hitherto from the Commissioners to imply the Idea of any Confusion or Irregularity existing in the Account, and all the Queries, which have been put to me, and which may be said to have been properly connected with the Account, would take but a very short time, indeed, to frame and to answer.

"It is true that much trouble and perversion had been occasioned, by sending me to the Commissioners previous to a competent Trial: By the Loss of a considerable part of the Vouchers: And by the Obstruction on the Board of foreign Matter, and the Attention to unworthy and unfit Informers. I am unable to imagine any other Cause of the Delay: than these. I trust that a Gentleman of your Rectitude and Character must feel the Oppression I suffer, and will consider what advantage may be taken of an Insinuation of the kind in respect to the Justice of my Claim in the more interesting Points, and that, before you the sign the Report, should it contain any such Insinuation, you will be pleased to give me an Opportunity of refuting the Charge of Irregularity and Confusion, or any other whatever, by indulging me with Information of the Grounds. I have the Honour to be &c.

"To Sir John Dick, Bart. K. B."

"J. F. W. DESBARRES."

(146) Letter from DesBarres to the Secretary of State, dated 21st Sept. 1792, (App. B. 112.) viz.

"IN your Letter of the 26th September 1791, in Answer to the various Applications I had made to your Office for Redress, you were pleased to allude to the References of Lord Sydney to the Treasury in 1786 and 1789, and to decline examining into my Claim until my Accounts of Disbursements at Cape Breton were settled: Justice, which I have for Years solicited in vain, required that those Accounts should long ago have been settled, and I had persuaded myself that a Report would certainly have been made before the late Adjournment, instead of which, a vague Promise only was given, that it might be made in November, accompanied however with strong Hints, it would be much later. Whatever may be the Cause of such Delay, I shall not at present explain; but I have the Testimony of my own Conscience, as well as the Judgment of respectable Persons in my favour, when I assert, that nothing obscure or irregular, can be discovered in my Accounts, the Amount of which, I solemnly protest, fall far short of what I have bona fide expended in the Public Service. These Accounts, with their corresponding Vouchers, were regularly and periodically transmitted. They have undergone a rigid Investigation, and Mr. Steele has declared them to be perfectly clear. After our last Interview, in which you were pleased to assure me that no Accusation or Complaint of any kind, existed in your Office against me, I requested the Commissioners of the Public Accounts to declare, if they had any Charge to advance, or any Doubt of the Rectitude of my Conduct, or of the Accounts which had been submitted to their Investigation; and Sir John Dick, in the Name of the Board, emphatically declared that they had none whatever.

"Much personal Attachment and respect for the several Members of the Administration, joined to a very sincere Wish on my Part to avoid all offensive Measure to obtain that Justice to which I am entitled, induced me to bear with patience the innumerable and vexatious Delays that have been opposed to my equitable Claims, and, I hope still, from your acknowledged Rectitude and Attention to the Public Service, to be preserved from so painful an Alternative. I detest the Language of Complaint; but, on this Occasion, my Character must be rescued from unmerited Imputation, and the Injuries which I have sustained require to be redressed. You will therefore, Sir, feel for a diligent and faithful Servant of the Public suffering under undeserved Obloquy, and excuse the Warmth with which he presses his Claim—not to Favour or Protection; but to Justice and Reimbursement."

"When you were pleased to require my Attendance at the Treasury, I cherished the Hope of being at Liberty to return early in the last Spring to America, where my own Affairs have long called me, and where my Estates have suffered considerable Injury: Not only by my Absence; but by their having been seized by the Public Creditors. I also wished it, from the Zeal which I feel for an Infant Colony of my own Creation, as it were, and which, I hear, has been almost ruined since my Departure. Let me therefore, Sir, with the utmost Humility and at the same time with the most perfect Confidence in your Love of Equity, entreat you to come to some Decision on a Matter, no less important to the Public than to myself, before the Business of Parliament interferes. In this Hope I beg leave to assure you of the profound Respect with which I have the Honour to be, &c.

"To the Right Hon. Henry Dundas,"

"J. F. W. DESBARRES."

Letter from DesBarres to the Secretary of State, dated 16th January, 1793, (App. B. 124.) viz.

"YOU were pleased in Autumn 1791, to refer me to the Treasury and from whence I was referred to the Auditors, and I had the Honour repeatedly of mentioning to you the Delays there, and to request your Interposition in the View of the Justice, so long due to me individually, as well as on account of the Public Interest connected therewith. No Report is yet declared, notwithstanding the Hopes which were held out to me long ago. Sure am I, that the Cause ought not to be deemed to lie, either in the Accounts or on my Side; for they are perspicuous and just, and I have constantly attended. If I might presume to insinuate any Cause, it would be something that originated in your Office, the Effect of which does not seem to have ceased, and with respect to which I had early taken the liberty of cautioning you: And, upon the whole, I find that more Time has been employed in trying myself personally, than in trying the Accounts. In this Course I might doubt, if they will ever be settled: At least, confidently with the Dignity of Government, and Justice to me in respect to them and all Matter connected with them—the mere accumulating and progressive Expence and Damage, accrued, in consequence of the Proceedings which have taken place, exceeding the Amount of the Charges originally preferred, and the other Injuries becoming daily more irreparable, &c.

"To the Right Hon. Henry Dundas,"

"J. F. W. DESBARRES."

formed that his Account would shortly be stated to the Treasury (147). A List of Disallowances was thereupon transmitted to him, with a Letter, signifying that the *Commissioners for auditing the Public Accounts* had, on the 1st February 1793, signed a State of his Account as Lieutenant Governor of Cape Breton, with a Balance, due to him from the Public, of the Sum of £.2213 18s. 1d. and giving him Notice, that, the said State would be forthwith laid before the Lords Commissioners of His Majesty's Treasury, to the End that, if he should see good cause to submit to their Lordship's Consideration any Observation relative to the said Account, he might lose no time in so doing (148).

DesBarres accordingly submitted his Observations on the Disallowances surcharged in the Auditors Report (149) and having constantly attended, soliciting the Consideration thereof (150) he was

Answer from the Secretary of State, dated Whitehall, 18 January 1793, (App. A. 79.) viz.

" I HAVE received your Letter of the 16th Instant, in Answer to which I have only to inform you, that whatever you allude to, as having originated in this Office, has been transmitted officially to the Lords Commissioners of His Majesty's Treasury, and by Reference from their Lordships' to the Commissioners for auditing the Public Accounts: If it be in any respect erroneous, or not warranted, or irrelevant to the Subject Matter, their Lordships' in their Determination upon your Accounts, will give it only that Degree of Consideration to which they shall think it entitled, &c.

" HENRY DUNDAS."

It may, perhaps, be allowable to suppose that the foregoing Answer must have been written in some Moment of Mr. Dundas' great Hurry of Affairs, and in the Absence of Consideration; the Public Interests connected with the Case merited his attention, and the Circumstances of it made a peculiar Appeal to his honourable Feelings. An official Recognition of the erroneous or unwarrantable or irrelevant, Transmissions, which had been made from the Secretary of State's Office to the Treasury, could not but have appeared to Mr. Dundas to be requisite, as consistent with the Dignity of his Candour and Justice: and, although there is no doubt but the Lords of His Majesty's Treasury would give the Matter contained in the Official Reports from His Majesty's Secretary of State the exact degree of consideration to which they might think it entitled; yet, as it was well known that their Lordships' minds had long laboured under the Impression of calumnious Reports and these had been conveyed to them under the Stamp of Official Authority, the Imposition of the oppressive Task of evincing the Perversion thereof was a Circumstance (under the Predicament of DesBarres having been denied a fair Communication of these Reports) of extreme Hardship.

(147) Letter from Sir John Dick to DesBarres, dated Comptrollers Office 29th. January 1793, (App. A. 80). viz:

" I HAVE this Moment received your Letter of the 28th Instant, and have the Pleasure to inform you, that, after much Labour and Trouble at the Auditors Office, your Account will be stated to the Treasury the latter End of this Week, and the Inspectors will inform you of the Particulars of the Board's Disallowances. I am with great Regard, &c:

" JOHN DICK."

(148) Letter from the Inspector of the Public Accounts to DesBarres, dated Office Somerset Place, 1st February 1793, and the List annexed (App. A. 81, B. 131.) viz.

" The Commissioners for auditing the Public Accounts, having this Day signed a state of your Account as Lieutenant Governor of Cape Breton from 19th November 1784 to 13th October 1787, with a Balance due to you from the Public of the Sum of £.2213 18s. 1d. including certain Disallowances by way of Surcharge, particularly mentioned in the annexed List, I am directed to give you Notice, that the said State will be forthwith laid before the Lords Commissioners of His Majesty's Treasury, to the end that, if you should see good Cause to submit to their Lordship's Consideration any Observations relative to the said Account, you may lose no time in so doing, &c:

" To Lieutenant Governor DesBarres."

" JOHN WIGGLESWORTH."

(149) Vide: Observations submitted to the Lords of the Treasury, enclosed with the following Letter, dated 23d March 1783 (App. B. 130 to 133.) viz:

" Unacquainted with the Particulars of the Auditors Report upon the Account of Expenditures for the Public Service in Cape Breton (excepting as to the Disallowances, to which the Remarks, herewith humbly presented refer) I take leave to submit to your Lordship, that my Situation there, in the Period of the Account, was truly difficult in every Point of View, and that it was farther aggravated, by Circumstances—several of them operating against me to this Day, the Detail of which I respectfully suppress in the Hope of your Lordship's Consideration and Justice.

" I was appointed Lieutenant Governor of that New Colony, expressly on the Consideration of being an Officer, who had served well and had not been rewarded as he deserved, and who by his Services in that Part of His Majesty's Dominions to which he was to be sent, might be farther useful. Permit me then, My Lords, to appeal to your own Nobleness of Mind, if it was to be supposed, that I would sacrifice to unworthy Objects the Character, which evidently had been the chief Motive and sole Reward of every Act of my Services, and which I had the Happiness of enjoying to the full Measure of my Satisfaction for Thirty Years before,—honoured with the Approbation, as well of my Gracious Sovereign, as of the most illustrious Commanders, Naval and Military, of the Age. To this, I may add the total Absence of Temptation on One Side, and, what was infinitely more to me, the superior Inducement on the Other of the farther Approbation, Character and Preferment, to which my successful Exertions upon an Object of such National Benefit ought not to have failed to recommend me. This, My Lords, was the sole Object of my Pursuit. Accordingly, by my individual Exertions and Resources, between Three and Four Thousand Souls had been settled in the short space I remained there, and to the Value of upwards Forty Thousand Pounds had, in the first year, been exported through the Custom House, a Rapidity of Success, unexampled in the History of all the British Colonies.

" Amidst the Absence of Aid, and all my Difficulties and Risks, it might well be credited, that, nothing was done or incurred, which could possibly be avoided without Injury to the Service, or had not, for it's immediate Object and Consequence, Utility and Economy. Every Circumstance, duly considered, conspired to invite Confidence, Liberality of Construction, and Protection. So far from any Thing improper being charged in the Account in Question, it is Truth that a farther Sum, unavoidably disbursed under the Circumstances of the Service, and too considerable for me to lose, is not introduced in it:—concerning which, and the Loss in the Seizure of my real and personal Property by the Public Creditors, I had, at the Time of the Reference, applied to know the Pleasure of your Lordships; [but have not been indulged with an Answer,] &c.

" To the Right Hⁿ. Lords Commissioners of the Treasury."

" J. F. W. DESBARRES."

(150) Memorials and Letters to the Lords of His Majesty's Treasury, App. B. 133 to 139.

in the Month of August following, interrogated at the Treasury Board (and in the Presence of the Auditors) with respect to some of the Articles of Charge contained in the Account and reported for Disallowance, the Justice and Propriety of which he farther evinced; Whereupon, the Lords of the Treasury were pleased to order the Auditors Reconsideration of the same, who, afterwards, reported them to have been just. But, it is infinitely to be regretted, that their Lordship had not condescended to extend their Examination to the remaining Surcharges and to weigh the Elucidations and Reasons submitted thereupon, as their Decision must have been productive of proportionate Justice.

Mr. Pitt had declared, that he would apply his first Moments of Leisure, thoroughly to consider the Auditor's Surcharges and DesBarres's Observations on them (151). However, finding afterwards, that, notwithstanding the Elucidations contained in the Memorials, Remarks and Remonstrances already submitted, only a partial Consideration had taken place, DesBarres, again repeated his Representations to the Lords of the Treasury (152).

(151) Vide: App. A. 84. B. 134, 136.

(152) Vide: DesBarres' Letter to the Lords Commissioners of His Majesty's Treasury, enclosing additional Observations on the Auditors' remaining Surcharges, dated 16th December, 1793, (App. B. 140 and 141.) viz.

" HAVING seen, in the Office of the Commissioners for auditing the Public Accounts, your Lordship's Allowance of such Articles surcharged in their Report of February 1793, as you, Lordships had been pleased to desire my farther explaining in your Lordships Presence in August last [a], and your Disallowance of Part of the said Surcharges upon which you had desired a farther Explanation, I, most respectfully, beg leave to remonstrate against the latter [b].

" In the manner set forth in my Memorial [c], now lying before your Lordships, a thick Veil has been early thrown, and since kept, over the Truth and Justice of my Case and of the Colony of Cape Breton, for removing which I have not been indulged with the Opportunity, constitutionally and legally, allowed to other Officers in similar Predicaments, nor could all my Representations obtain the Matters to be received into a Course of Attention, and the Colony and myself have thereby been ruined together. The Case, and my Conduct, merited a different Fate.

" It is surmised, that my Operations were not authorised by direct Orders—that it was not intended to make Expenditures in Cape Breton—that the Accounts are intricate, irregular and confused, &c.: The Part of the Report of the Commissioners of the Public Accounts which is the most material, as characterising my Case, has not been communicated to me [d]. Circumstances however, indicate that they found it infinitely more favourable than had been officially reported; But their Report must necessarily be partial: It must be inadequate where it may be most favourable; nor could I wonder at it's being unjust in other Points, considering the Condition in which the Accounts and myself were referred to them, under the Stigma of Misrepresentations, false Accusations and Reports which has been received, acted upon, and echoed back to the Public under the Stamp of Authority, when I was intent on my Duty, unsuspecting and ignorant of any such Thing [e], and my right of Trial for clearing up which was evaded after I was called Home expressly to answer for them: nor was I, even, indulged with Official Copies of the Complaints, of which I must have remained ignorant had I not met with the principal Articles of Accusation, originally delivered into Office, carrying about among my Friends in order to alienate them [f]. Thus, besides the unavoidable Impression of the Stigma, instead of the pure Matter of the Accounts, there came before them to examine and report upon an inseparably mixed relative Matter, to which their Constitution and Forms are inapplicable and inadequate, if not illegal. I personally was treated equally as the Accounts, and my Accusers were among the clandestine Evidence [g]. To this, there is another Circumstance, Official Personages who might have proved fit Referees in many important Points, had, by the Measures formerly adopted, become deeply interested in supporting the Perversion Under the Influence of these Circumstances and Causes of Intricacy and Confusion, it is clear, from the Tendency of their Queries and the alleged Reasons of their Surcharges, that the relative Points have not been conceived, and, that the Case is still not understood, I feel from the now disallowed Residue.

" My Lords, I could respectfully wish to be relieved from the necessity of alluding so frequently to my real Case, and from ever detailing it. I had ample Orders [h], and indeed it would have been incompatible with the Circumstances and Object not to have given me such: I had also such specific Orders as the Circumstances admitted at the Time: My Operations come within the Spirit and Letter of these. There is a considerable Expence necessarily involved in the Commencement of settling all Colonies, of which His Majesty's Ministers were perfectly aware [i]: There was a farther Expence necessarily attached to the Views which had inspired the colonising of Cape Breton, of which Ministers were also apprised by the Plans and Estimates which Administration had commanded me to give into Office, and I had accordingly given [k]: And the Office above had accepted an Engagement from certain Persons, by which alone some Hundred thousand of Pounds would, in the correspondent Space, be consumed in peopling Cape Breton [l]. To support this Engagement on the Part of Government, I was sent out suddenly and in great haste, even in the beginning of the Winter, with the Instructions alluded to, and Assurances that every support would be furnished: How far this was realised, I need not delineate. But, having got through, as well as possible, the inconceivable Difficulties of the first Winter, by the earliest Opportunities, in Spring 1785, I reported the State and Circumstances of the Colony, together with the Accounts of the Expenditure which it had been necessary to incur: I transmitted to Office an Estimate of the Current Expenditure which appeared to me would, for some time to come, be requisite to be incurred. This Estimate calculated for Three Months, amounted to £.4282 11s. 2d. [m]. I submitted a Mode for Reimbursement of the Advances, which I was in the course of incurring for the Support of the Public Service, to be observed by me, until I might be more specifically informed of the Pleasure of Government in that respect, viz. periodically to transmit Quarterly Accounts, and draw on the Lords of His Majesty's Treasury, in favour of my Agent, for the respective Balances due thereon.

" In the mean time, I necessarily proceeded accordingly, in daily Expectation, under a Course of the most difficult Circumstances, supporting by my own Resources the Faith and Interests of Government. I was undeniably regular throughout in the most official Manner. Though I had been left to myself, in less than Three Years, I so far accomplished the Object of my Mission, in maintaining the Loyalists, erecting the required Barracks and Accommodations for the Troops, &c. and settling upwards of Three thousand People [n], at a Charge to Government under Twenty thousand Pounds [o], while, in the Space of One Year, to the Value of Forty thousand Pounds had been exported through the Customhouse [p]; And I take upon me to assert upon the best Grounds, that, had I been supported in the manner held out to me, and not interrupted in the manner I have been, the Colony, instead of being reduced to original Inutility, would now, in the ninth Year from its Commencement, make to this Country all the Return it had made annually to France—not less than Half a Million Sterling, as appears by the Statements in the Possession of Government, which had induced the Measure of Colonising Cape Breton [q].

" In respect to the Accounts: The Expenditures have been orderly and necessarily incurred, honourably stated, fairly vouched, and in pursuance of the Mode alluded to, periodically transmitted. The Official Rule and Practice being generally to pay, in the first instance, the Drafts of Governors or Commanders, and, in Case of Deficiency of Form, or otherwise, to imprint the Amount to their Accounts, and return the opposite Directions and Instructions for rectifying the same immediately on the Spot where it may be done, in order to prevent Intricacy or Loss to the Public: Accordingly, the

" Amount of my Bills, drawn on your Lordships upon Account of the Advances and Estimate abovementioned, was paid to the Agent[r], who, after Official Communications, signified to me to pursue the Mode proposed, as being proper and right, saying, that the Accounts would, agreeably to the usual Rule and Practice of Office, be forthwith examined and reported upon, and, should any Thing therein appear in the least Degree objectionable, I would immediately be informed thereof [s]. I was proceeding in that Course, when my Bills were protested and my Credit suddenly was stopped, without providing for what had already been incurred, or what would accrue before the Intelligence of that Measure.

" If other Instructions had not been sent to me, and, in respect to myself as an accused Governor, if, for want of Intimation of the Particulars, I have not explained, nor been enabled to transmit Evidence from the Spot: If Remarks, or Objections, upon the Articles or Vouchers of the Accounts have not been transmitted to me: If, after being called Home to answer, all my Requisitions could not obtain an official Communication of the Criminations, nor a Trial [t]: If my Accusers and Slanderers have been cherished, approved, advanced, [u] and placed beyond my reach for Justice, under the Knowledge of their Unworthiness[w]: If, while suffering Evils not to be conceived, my farther Requisitions for a Trial have been waved, on a Pretence of there being no Crimination in the Office[x]: If the Originals and Duplicates of the Vouchers regularly transmitted have been, in the View of finding or grounding Objections, entrusted, in or out of Office into the Hands of professed Slanderers and abstracted, or lost: If, on the Pretence of giving an immediate Settlement, [which the Result indicates was not intended] the Triplicates in my Possession were afterwards elicited from me to replace the Vouchers so lost: If, before these had been officially examined, they have likewise been entrusted in similar Hands for similar purposes[x], or a Portion of them lost, abstracted or mutilated, or these, being on Inspection found missing, have been officially reported for Disallowance: If a Residue of these Vouchers have, after such Report, been also lost in the Public Offices, and, after a course of Years, I am to be held responsible for them: If the Falsehoods and Slanders of the Enemies of the Measure of Government for settling Cape Breton have been early arranged into Official Reports upon the Accounts: If the like Matters have been inserted into subsequent Official Reports: If, in the former, there was a false Libel, as charging me with levying Troops without the Sanction of Parliament and fitting out an Armament to invade an Island belonging to a Sovereign in Amity with His Majesty [y]; And, if the latter are equally unfounded[z]: If, upon challenging the said Charge of Treason in the former, it was instantly taken from me; and, being set down in the Office to make Remarks upon the rough Draft of the latter, my Remarks were taken from me the Moment they were hastily finished, without Permission even to take Copy of them: If, in the Office of the Commissioners for auditing the Public Accounts, I requested a Copy of the alleged Objections to the Accounts in the said Official Reports in order to refute them, and the same was refused with an Assurance that the said Reports would not affect the Accounts or me, and, if the mere Faith and Authority of them have notwithstanding been taken and offered to your Lordships as the Grounds of the now remaining Disallowances [aa]: If, upon expostulating on the unaccountable Circumstances and extreme Hardship of my Treatment, a Principal Officer at an early Period, declared, with Imprecations, that if I should blame the Office, he would prevent the passing of the Accounts and stigmatise and ruin me: If this Threat has been, but too emphatically, realised, and still operates: If the delegated Authority of Government has been employed in Cape Breton in the Seizure of my Property, on Pretence of my being a Debtor to Government, notwithstanding the extensive Balance then due to me, and what still remains: If, even within the last Three Years, other Property of mine has been unjustly and illegally taken by Official Order, without notice to me, though upon the Spot, and my Remonstrances, upon the Discovery thereof, have been entirely unnoticed [bb]: If, my Lords, by the relative Part of these Measures, any Intricacy or Labour of Explanation and Hearing is felt, or any Thing crept in, now, not exactly coinciding with Forms inapplicable to so unaccountable a Case, the same arises wholly, from the peculiar Measures of treating the Colony, the Accounts and me, together with the Length of Time. I then, solemnly protest, against the Imputation and the farther Consequences thereof to me. And, if by the same, or other similar Measures, unhappily too numerous to be alluded to, the most valuable Part of my Property has gone by Executions for the Public Debt, Damages, Interests, Prosecutions, &c. and all my Concerns have been deranged, and myself exhausted in long and expensive Attendance: If my Character has been injured, my Promotion repressed, and my Peace of Mind destroyed, it is now high time for your Lordships to do me Justice.

" Considering, that, besides having necessarily and fairly expended the Amount of which this Residue is a Part, I declare upon my Honour (and it is well known,) that I had, in order to prevent a Portion of His Majesty's subjects from perishing in the Situation in which they and myself had been placed, expended several Thousand Pounds, which I have not charged. Considering the Expences and Losses which have been the consequence of the Treatment, and of which I shall take the Honour of laying a Statement before your Lordships, I trust your Lordships will feel how incompatible it were in me to acquiesce in any Deduction: Besides, I have repeatedly represented to your Lordships, that the Damages and Expences of the same are daily accumulating, and the Prosecutions against me are proceeding. I can only declare, that however essential the Reimbursement of the Account might have been to me; Yet; could I have originally supposed it possible in nature that I should be made to run such a course, I would have given an Acquittal at once: I would have contrived some means to settle with the Public Creditors, and at this Day I would find myself in a better Situation than with the allowance of it all. But, I had at stake an Object of infinitely greater Consideration than all the Money on Earth—the Vindication of a Character, acquired by long and active Service to my King and Country, honoured with my Sovereign's Gracious Approbation. This Character, I must and shall vindicate, if the Task should extend to all the Days of my Life. Having in vain solicited the constitutional and legal means of vindicating it in the Face of my Accusers, Judges, and all the World, I have combined it with the honourable Allowance of the Accounts, and every other Justice—which being the Case, every Fraction of it is as valuable to me as the whole, and I take leave humbly to declare to your Lordships that, as any Disallowance can only arise from Misconception, I feel myself irresistibly impelled never to desist from following up every Cause of such Misconception until Justice is done. It is my Duty to believe, and it is my sincere Sentiment, that it is the Wish of Government to do me Justice, and that the withholding it can only proceed from Misconception. The Pains your Lordships have already taken to bring it so far towards Justice must be gratifying to your Love of Justice, and, I humbly trust, and entreat, you will be pleased to admit the Reasons herewith submitted for allowing what remains. I have the Honour to be with the greatest Respect, &c."

" To the Right Hon. Lords Commissioners of the Treasury."

" J. F. W. DESBARRÉS."

[a] App. A. 87.

[b] Vide: Queries proposed by the Auditors, and DesBarres's Answers thereto: also Observations on the Surcharges, submitted to the Lords of His Majesty's Treasury. (App. A. 66. 73. B. 103, 107, 109, 116 to 121, 123, 125, 127, 130 to 132).

[c] App. B. 133.

[d] App. B. 128, 129.

[e] Vide: Reports from the Secretary of State's Office to the Treasury. Lord Sydney's Dispatch of the 30th November 1786, conveying His Majesty's Commands for DesBarres coming to England to answer Complaints founded on the Fabrication with forged signatures delivered by Mr. Hurd to his Lordship, &c.

[f] Vide: Page 71 and 72.

[g] Vide: Affidavits App: C. 36.

[h] App. A. 28.

[i] App. C. 450.

[k] App. A. 1 to 6.

[l] Vide: Proceedings and Orders to Governor Sir Frederick Haldimand and Correspondence concerning the Removal to Cape Breton of a pretended Association of (about five Thousand) Loyalists, who were to have been supplied with Rations of Provisions at least for Three Years, and with all manner of Building Materials and Clothings. The Cost for Provisions alone, (at the usual Rate of from Six to Seven Pence per Ration) would in a single Year, have exceeded Fifty Thousand Pounds.

[m] App. B. 9 to 13, 20.

[n] Vide: Descriptive List of 3379 Settlers in Cape Breton. App. C. 3.

[o] Vide: Account rendered. App. B. 100.

[p] Vide: Official Returns from the Custom House, of Exports from the 5th April to the 29th of November 1785. App: C. 32 to 34.

[q] App. B. 1 to 4. [r] Vide: Page 9. [s] App. A. 158, 159.

[t] Vide: Applications, App. B. 66, 67, 69, 70, 73, 75, 82, 85, 93, 96, 112, 114, 115, 124, 137, 149.

[u] App. A. 49, 177. B. 64. C. 366, 480 to 488, 523.

[v] Mr. Hurd, who had delivered the calumnious Fabrication and Forgery addressed to Lord Sydney, was, in March 1789, sent away on a Public Service, of a Nature for the due Performance of which DesBarres had upon Trial in Cape Breton found him to be quite unqualified. Although

Mr. Hurd had confessed in the Presence of Lord Sydney, of the Honourable Thomas Townshend, of Mr. Nepean, and of DesBarres, that he could not support any of the Accusations which he had subscribed and brought forward; yet, as, in making up the Reports to the Treasury, the Secretary of State's Office appeared to have been guided by the wild Tales of this Mr. Hurd, besides that he had already been detained above Two years for the purpose (as himself had given out) of acting in the Capacity of Prosecutor on DesBarres Trial; DesBarres remonstrated on the Necessity, in the View of Justice and of the Dignity of His Majesty's Government, of detaining him, until that Event should take place, entreating in the mean time to be indulged with an Official Copy of that Fabrication and of all other Complaints. Lord Sydney said he would farther consider on the Propriety of granting DesBarres's Requisition. His Lordship, however, pledged his word that Mr. Hurd should return to England within Six Months. Above Six Years have elapsed, and Mr. Hurd has not appeared. Nor has DesBarres obtained any Copy of the alleged Complaints.

[w] App. A. 75, also, Page 74. [x] Vide: Page 71.

[y] Vide: Page 53 & 54. [z] App. A. 177.

[aa] Vide: Surcharges, and alleged Pretences, a Communication of which has been peremptorily refused. App. A. 81, 92, B. 142.

[bb] It is reported that Orders were issued from Administration to proceed in the Seizure of DesBarres' Property, and that the Execution thereof was committed to Mr. Macarmick and his Council, composed chiefly of the Authors and Subscribers of the Fabrication addressed to Lord Sydney. It were reasonable to have expected that such undignified Characters would use the Powers delegated to them in a manner concordant with their Dispositions and insidious Views towards him, who had so frequently, attempted in vain to open the Eyes of His Majesty's Ministers on their delinquent Conduct. The Proceedings which took place are scandalously iniquitous, as well as opprobrious—against which, Chief Justice Gibbons entered his Protest in the Colonial Council. Vide: Page 58 to 60, App. C. 500 to 503.

REMAINING SURCHARGES.

Articles of Expenditure to be considered.

- [a] PAID William Babbs, for Stationary, 39l. 18s. 7d.
 [b] Ditto H.W. Perry, for engrossing Minutes of Council, Ordinances, and Documents of Proceedings, &c. 23l. 6s. 8d.
 [c] Do. Do. for paid by him to Copying Clerks, and Contingencies, 168l. 18s.
 [d] Do. Do. Do. 69l. 1s. 8d.
 [e] George Rodgers, for Pay as Acting Secretary, from 12th July to 24th Dec. 1786, at 6s. per Diem, 49l. 16s.
 [f] H.W. Perry for paid by him to T. Pitt, for writing, 15l.
 [g] William Babbs, for Stationary, 39l. 13s. 3d.
 [h] Geo. Rodgers, for Pay, as Acting Secretary, from 25 Dec. 1786 to 13 Oct. 1787, at 6s. per Diem, 87l. 18s.
 [i] H.W. Perry, sent to England to explain the Accounts, for his Expenses 88l. 17s. 9d.
 [k] R. Gibbons, for paid by him to copy Papers for consideration of Government respecting the Affairs of the Colony 9l. 6s. 8d.
 [l] H. GORDON, for Purchase of Two Boats and Wages of the Crews, from the 10th June to 30th Sept. 1785, 173l. 5s. 8d.
 [m] Math. Murray, for Cordage for the Government Craft, 7l. 11s. 6d.
 [n] William Ruffel, for Blocks for Do. 2l. 14s. 8d.
 [o] Thomas Loyd, for repairing Boats, &c. 10l.
 [p] H. Gordon, Coxswain, for Wages to him and Crews, from 1st Sept. 1785 to 11 July 1787, 208l. 9s. 4d.

[q] S. SPARROW, for 100 Barrels of Flour and 60 Barrels of Pork, 432l. 2s. 6d.

[r] TREMAINE and Stout, for sundry Supplies to the Public Works, 36l. 16s. 4d.

[s] CLAPBOARDS 43,304 Feet, and 14,358 Laths, 264l. 9s. 11d.

[t] Lime, 3980 Bushels, 191l. 10s.

[u] BALANCE due on the Account of Expenses for opening and working the Coal Mines, 754l. 4s. 8d.

Surcharged and Pretences alledged.

39 18 7½ SURCHARGED: "In pursuance of the Recommendation of Lord Sydney in his Letter of the 21st February 1789: No more is to be allowed for Private Secretary than 5s. per Diem and for Stationary 20l. per Annum; and, appearing, upon Inspection of the declared Account of Richard Spiller, Esq. Agent for the Island of Cape Breton for One Year to the 24th June 1789, that these Allowances were made to Mr. Perry, as Private Secretary, during the whole Period of Governor DesBarres' Account."

168 18 0
69 1 8
49 16 0
15 0 0
39 13 3½

87 18 0

88 17 9

9 6 8

108 1 8 SURCHARGED: "Agreeably to the Recommendation of Lord Sydney in his Letter to your Lordships, dated 21st February 1789; his Lordship having recommended, only, the Pay of Four Boatmen to be allowed for the Summer Months."

7 11 6
2 14 8
10 0 0

135 5 4

33 5 10 SURCHARGED: "No more having been paid than 398l. 16s. 10d. for 100 Barrels of Flour and 60 Barrels of Pork."

36 16 4 SURCHARGED: "It appearing that the Voucher produced to Lord Sydney was not signed."

264 9 11½ SURCHARGED: "For want of Certificate to shew that the Articles were received into the Store at Cape Breton and appropriated to Public Purposes."

191 10 0

754 4 8½ SURCHARGED: "For Expence of opening and working Coal Mines 2431l. 13s. 2½d. from which is to be deducted for Proceeds, as per Account rendered into Office, 1677l. 8s. 6d. Remains 754l. 4s. 8½d. As this Account is lost, the Board has no Materials, by which to investigate the Transaction. But as Lieutenant Governor DesBarres has not produced any Document to us shewing the Authority under which he worked the Coal Mines, it stands upon the Footing of his private Adventure; and therefore the Board cannot admit the Sum of 754l. 4s. 8½d. stated to have been lost in carrying on this Undertaking as a Charge against the Public."

£.2135 16 8 Halifax Currency
213 11 8 Exchange

£.1922 5 0 Sterling

268 18 3½ SURCHARGED: "Amount of Warrant dated 22d January 1791," [a].

556 16 2 SURCHARGED: "Bills paid by Sir Herbert Mackworth & Co. 7725l. 13s. 1d."

£.2747 19 5½ AMOUNT of Surcharges to be considered and rectified.

Vouchers

- [a] A. I. 8.
[b] A. II. 31.
[c] A. III. 22.
[d] A. IV. 6.
[e] A. V. 14.
[f] A. VI. 4.
[g] A. VII. 18.
[h] A. VIII. 20.
[i] A. VIII. 24.
[j] A. VIII. 26.

Vouchers

- [k] A. II. 10.
[l] A. VIII. 11.
[m] A. VIII. 2.
[n] A. VIII. 7.
[o] A. VIII. 25.
[p] A. VIII. 18. *
[q] A. VII. 17.
[r] B. VIII. 11.
[s] B. VIII. 12.
[t] Coal Mine Accounts

* Vide Invoice, viz.

"To 100 Barrels Flour ----- 33s. ----- 165 0 0
 "60 Do. - - - - - 77s. 6d. ----- 232 10 0
 "Truckage 2d. per Barrel. 160 Barrels ----- 1 6 8
 "Charges:
 "Commission, 5 per Cent. ----- 19 18 10
 "Insurance 2½ per Cent. ----- 11 4 0
 "½ per Ct. Commission on 430l. Insured 2 3 0 33 5 10
 "E Excepted, Halifax, 19 Nov. 1785, £.432 2 6
 "Sum. Sparrow."

[a] The Auditors, in their Report to the Treasury, stated this Surcharge in the following manner (App. C. 524.) viz.

"BY Warrant under His Majesty's Sign Manuel, dated 22d. January 1791, payable to Captain John Andrews in Discharge of the following Bills of Exchange and the Charges thereon, viz:

"One Bill of Exchange, drawn by Thomas Venture upon William Roberts, Esq. in London, dated Newport Rhode Island, the 23d. October 1785, payable to the Order of John Andrews - - - - - 100 0 0
 "Interest thereon from the 27th March 1786, when the Bill became due, to the 27th December 1790, at the Rate of 5 per Cent. per Annum - - - - - 23 15 4
 "for Charges of noting and protesting the Same, &c. - - - - - 10 10 6
 "One Bill, drawn by Thomas Venture, upon William Roberts Esq. in London, dated 25th October 1785, payable to the Order of Captain John Andrews - - - - - 100 0 0
 "for Interest thereon, from the 21st April 1786, when the same became due, to the 27th of December 1790, at the Rate of 5 per Cent. per Annum - - - - - 23 8 5½
 "for Charges of noting and protesting the same, &c. - - - - - 11 4 0
 "In all, by the said Warrant under His Majesty's Sign Manuel, dated the 22d. January 1791, which directs that these Sums, amounting in the whole to 268l. 18s. 3½d. be charged to the Accountant - - - - - £268 18 3½

OBSERVATIONS AND REASONS.

DESBARRES defrayed all the Expence incurred for Stationary, Writing, &c. in the several Colonial Departments, viz: Council, Secretary, Loyalists, Public Works, Accounts, Surveying, &c. &c. which it is obvious were very extensive as well as complicated: The Necessity of the Service, and of this consequent Expence not disputed. After the Accounts had been transmitted, and Mr. Perry had come to England farther to evince their Rectitude, and the Exigency of the Expence, Lord Sydney thought proper to create an Appointment of Pay and Stationary for him during the retrospective Period of the Accounts in the sole Capacity of Private Secretary to the Lieutenant Governor, with the clandestine Rejection of what had been actually paid and charged, for the Business done in the several Departments. The Determination passed on the Matter by Lord Sydney is glaringly inconsiderate and unjust, and requires to be rectified.

THE Nature and Exigency of the Service, and the Circumstances of DesBarres' peculiar Situation and Duty (amply explained in his Remonstrances (imposed the Necessity of incurring the Expenses, as charged. He had every Duty to inspect, and, without exerting as much as possible by his Presence and direction every where, the Service would have suffered and a considerably greater Expence would have been incurred. He could scarcely move, but by Water and, what he might generally go in a quarter of an Hour in this way, would have left no Resource but a Circuit of many Miles through impenetrable Woods; nor could Boats be had for Hire, and, if such could have been obtained, the Expence would have been considerably higher. The Crews were even more necessary, if possible, in the Winter than in Summer; as the Ice, now and then, broken and interrupted, required greater Dexterity and Exertion. The Pretext of this Surcharge is certainly not founded on due Consideration of the existing Circumstances. It were however unjust to impute to Government any Disposition of illaudable Penury in Circumstances, wherein the Interests and Welfare of the Public Service must so clearly appear to have been at Stake: Indeed, such Imputation were inconsistent with the Recollection of what has since been allowed for Craft merely attending on Governor Parr and Mr. Macarmick—though Nova Scotia is a Settled Country, having good Roads of Communication, Commercial Intercourse, and Opportunities of Conveyance by Ships of War, and, that all Public Works had ceased at Cape Breton and the Colony, so far from growing, has been ever since in a Course of Evacuation.

THIS Surcharge is an evident Mistake: The Commissioners for auditing the Public Accounts having only considered the mere Cost of the Provisions, *Vide*: Note Page preceding this.

THERE existed a perfect Voucher of this Article antecedent to the Loss thereof: Besides, Mr. Tremaine, who had received Payment for the Supplies in question, was in London at the Period of Lord Sydney's Report, and might readily have given any farther requisite Receipt or Attestation, if the Office had noticed the alleged Defect.

THE Superintendent and Overseers of the Public Works, who had received into their Charge the Building Materials here alluded to and had applied them to the Public Service, accordingly inserted the same in the Public Account which was made out by them. The Appropriation of these, and generally of all Building Materials charged in the Account, is apparent, from the Inspection of the particular Statement, also made out by the Superintendent and Overseers, for the express Purpose of explaining the Expenditure and particular Application of Materials, Labour, &c: [a]. The Pretext alleged for this Surcharge is therefore unfounded.

IN the Plan originally formed for colonizing Cape Breton, the Coal Mines were considered as a Source of Revenue to be applied in aid of defraying, and a Means of forwarding and supporting its Settlement [b]. The working of them is an Object of Public Duty, which it was the avowed Intention of Government to be executed: In that palpable View of the Matter, DesBarres submitted his Ideas to the Treasury, in a Paper dated 1st September 1784, for reducing, by that Means, the Expence of Supplying the Garrison with Fuel in North America [c]. Accordingly, among other Operations of Duty, the necessary Preparations were made, Implements and Miners were procured, and the working of the Coal Mines was commenced and carried on successfully: And, from the earliest Period, Government had been credited with the Proceeds, which it accepted [d]. The Authority to work the Coal Mines, was so well understood that even the Under Secretary of State recommended One of his own Proteges to DesBarres for being employed therein [e].

The Ideas conveyed in the Auditor's Report are evidently unfounded. On what Pretext an Object of the Nature alluded to, could be placed on the Footing of a private Adventure by them; is not easily imagined. They have also inconsiderately asserted that DesBarres had stated a Loss, in carrying on the Undertaking, while, in Truth, he had (exclusive of the Balance of 754. 4s. 8½d.) stated a Gain to Government. This is obviously apparent by the following Abstract from the Account acknowledged to have been received into Office, viz.

Dr.		His Majesty's Collieries in the Island of Cape Breton.		Cr.	
To Expence incurred for Cost of Implements and Tools, Accommodations, Wages and Support, of Miners employed in opening and working the Coal Mines		2431	13	2½	
Balance, or Gain to Government, besides all the Implements Tools, Accommodations, &c: for carrying on the Work thereafter		262	1	0½	
		£.2693	14	3	
					1677 8 6
					470 3 0
					546 2 9
					£.2693 14 3

Viewing the Matter as a Public Object, DesBarres is intitled to the Reimbursement of his Advances, amounting to - £.2431 13 2½
from which, after deducting the Proceeds applied to the Discharge thereof - - - - - 1677 8 6
remains the Balance of - - - - - 754 4 8½

On the other hand: If viewed in the Light of a Private Adventure, he is intitled to Payment for the Amount of Proceeds laid out for the Public Service, 470. 3s.—And to the Amount of Coal which remained on the Spot ready to be disposed of, 546l. 2s. 9d. - - - - - £.1016 5 9
besides the Value of the Implements and Tools, &c: [f].

THIS Surcharge evidently arose from Inadvertency, or a Misconception of the Remonstrances, which Captain John Andrews had laid before the Lords of His Majesty's Treasury, (and whose Claim their Lordships were pleased to refer to Comptrollers of the Army Accounts) in order to obtain Redress of Injuries sustained by him at Halifax from the Officers of that Government whose Proceedings he represented to have been treacherous and oppressive. Andrews is one of the Persons, who, with others in Rhode Island, proposed to emigrate to Cape Breton: He had in Autumn 1785, entered into an Agreement with Captain Venture to load and send a Vessel with Provisions for the Relief of the Infant Colony—on the Delivery of which, he was to be paid the Value thereof together with an Advance of 50 per Cent. upon the Invoice, in lieu of Freight, Insurance, &c; but the Provisions never arrived at the Colony—the Vessel and Cargo having been (as represented by him) decoyed into the Harbour of Halifax and there, individually seized. It appears that Andrews had received Two Bills on Account from Venture of One hundred Pounds each, in order to assist in procuring the Provisions in question. The Lords of the Treasury were pleased in 1791, to order Payment of said Bills, with Damages and Interest thereon, to said Andrews, instead of the Indemnity claimed for the Seizure of his Vessel and Cargo and the Losses accrued to him in consequence—in all which, DesBarres had no concern whatever [g].

THIS Surcharge is also the Result of mere Inadvertency. *Vide* Page 63 to 65.

[a] *Vide*: Statement, given into Office, of the particular Objects of the Public Service, in the prosecution of which the Expenditures were incurred; also, Plans of Public Buildings erected, &c: App. B. 155 and 156.

[b] App: B. 1 to 4.

[c] App: B. 7.

[d] App: C. 459.

[e] App: A. 151.

[f] The Auditors, in their Report of this and the foregoing Surcharges, appear, either to have laboured under Misconception, or been guided by the arbitrary influence of Misrepresentation. It was inconsiderately reported in the Secretary of State's Office, that DesBarres had leased out the Coal Mines at Cape Breton contrary to Instructions and appropriated to himself the Proceeds thereof. A Friend, who had heard of it, happening to call at the Office, made Inquiries to know the Truth. The Under Secretary of State (Mr. King) asserted the Report to be an indubitable Fact; But, referring to the Leases in question, these were found to have been executed by Mr. Macarmick, and not by DesBarres. Hence, probably, the Auditors derive the fallacious Pretext for surcharging the claimed Balance of 754. 4s. 8½d.

[g] That the Sum of 268l. 18s. 3½d. ought not to have been debited, or surcharged, will farther appear by the following Account and Letter from Captain John Andrews to a Friend of his, who has lately put the same into DesBarres' Hands, (App. B. 228 & 229) viz.

" ACCOUNT: "		" Newport, Rhode Island, 5 October 1785. "	
" Sold, to Thomas Venture, for the Use of Government, by John Andrews, "		" the following Articles: viz. "	
" 83 Barrels of Flour at 60s. per Barrel	249 0 0		
" 59 Do. - Beef 85s. Do.	250 15 0		
" 13 Do. - Pork 115s. Do.	74 15 0		
" 744 Gallons Molasses 2s. per Gall.	74 8 0		
" 1272 Do. - Rum 2s. 6d. Do.	159 0 0		
" 10 M. - Bricks 30s. per M.	15 0 0		
" 77 Bushels Potatoes 2s. 6d. per Bush.	9 12 6		
" 100 Do. Oats 2s. 6d. Do.	12 10 0		
Halifax Currency £.845 0 6 - Sterling		760	10 5½
" The Sloop Hannah - - - - -		315	0 0
		£.1075	10 5½
" Received in Part by the Payment of Two Bills at the Treasury "			
" drawn by Thomas Venture, dated 23d. and 25 October 1785		200	0 0
		£.875	10 5½
" By Interest on 875l. 10s. 5½d. from the 1st Nov. 1785, to the "			
" 1st May 1791, being 5 Years and 6 Months - - - - -		240	15 3
" By Balance due - - - - -		1116	5 3½

Capt. Andrews' Letter, to John Smith, Esq. (App. B. 229), viz:

"No 4, London Road, St. George's Fields, 21 April, 1791.—As you so obligingly attended to my Narrative when I had the Honour of meeting with you, and promised your Aid in obtaining Compensation for the Losses I have sustained, permit me to give you a short State of Facts.

"In the Year 1785, under the Provisional Articles of Peace, and in Conformity to the Advice of the Commissioners of American Claims, I was at Rhode Island, collecting Debts and other personal Property I had there, and I had so far succeeded as to collect in Produce (Money being very scarce) about One thousand Pounds. At this time, Mr. Venture (Governor DesBarres' Agent) came there, for the Purpose of purchasing Supplies by Order of the Governor and for the Use of Government. As I intended removing my Family and settling on the Island of Cape Breton, to which His Majesty's Loyal and faithful Subjects had been invited and encouraged by the Governor's Proclamations, I readily sold to Mr. Venture the Produce I had thus collected, which he shipped on Board the Sloop Hannah, consigned to the Governor (British Ships at this time not being permitted to an Entry at Rhode Island, Mr. Venture, was under the necessity of employing American Vessels) and Mr. Venture as the Governor's Agent, agreed with me, that, in case the Vessel should be seized for Breach of the Navigation Act, she should be paid for by Government, and I agreed with him to Insure against Sea Risk. In consequence of this Agreement, I became Security to the Owners, to pay for the Vessel, in case Loss should happen either Way. The Vessel failed in the Month of November: was blown off the Coast (and in Distress) put into the Island of Antigua; where she was permitted to an Entry, and the Master allowed, by the Officers of the Crown, to dispose of the perishable part of the Cargo, repair the Vessel, and depart without Interruption. On her Voyage from thence she stopped at Rhode Island, on her way to Cape Breton, and, her Cargo being complained agreeable to the Bill of Lading, I took my Passage in her, intending, on my Return, to remove my Family there, and Numbers of Others who had continued Loyal Subjects had fitted Seven Sail of Vessels for the purpose of removing themselves and Families on my Return. Several Loyalists were, at this Time, at Rhode Island (having been in the States to collect Documents of their Losses to be laid before the Commissioners then in Nova Scotia) and, there being no other mode of getting to Halifax, but by means of the opportunity that thus presented itself, took their Passage in this Sloop. On our Voyage we stopped off the Harbour's Mouth of Halifax. I went on Shore with the Master, waited on Mr. Newton the Collector, and requested of him to suffer us to land the Passengers and take in a Cask of Water. He mentioned the Circumstance to the Governor, and afterwards gave Permission for the Vessel to come into the Harbour, declaring that no Advantage should be taken, or any Damage whatever accrue, therefrom. The Vessel accordingly came into the Harbour, and the Passengers, agreeable to Mr. Newton's Permit, were landed when contrary to every Expectation, and the Assurances Mr. Newton had given me, he seized and libelled her in the Court of Vice Admiralty, where she was condemned for a Breach of the Navigation Act. After Condemnation, Mr. Newton promised to me, that the Vessel and Cargo should be put up in one Lot, so that I might purchase the Whole at the Valuation: but, again in Violation of his Promise, the Cargo was put up in small Lots to enhance the Price, and the Vessel by herself, which he purchased on his own Account.

"By means of this Seizure and the Conduct of Mr. Newton, I have been not only ruined; but prevented from removing my Family to Cape Breton, and the Others who intended removing there, on hearing this, gave up all thoughts of so doing; Whereby the Settlement has been deprived of many useful Persons, who, by their Wealth and Numbers, would have been the means of putting the Island in a very flourishing Condition; And, indeed, I can with Truth declare, that the Officers of Government, and Others, at Halifax took every Pains to injure the Character of Governor DesBarres and prevent Emigrations to his Government.

"To add, Sir, to the Loss I sustained of the Goods sold to Mr. Venture, being £.760 10s. 6d. Sterling, I have been obliged to pay £.315 for the Vessel, and, in order to obtain Compensation, I presented a Memorial to the Lords of the Treasury in September 1789, to which I have not been able to obtain any Answer whatever, and I have been put to the Expence of Two Voyages to England, and, since the Month of August last, have been soliciting Payment. This, Sir, is a true State of my Case, and, I beg to assure you that your Exertions in obtaining for me that Relief which I think myself intitled to, will be the Means of, doing an essential Service to a distressed Family and laying me under the most lasting Obligations.—Had not Others, in similar Circumstances, received Compensation, I should, perhaps, not be justifiable in pressing my Case so strongly as I have done, nor in making such repeated Applications.

"In order to give to Mr. Venture a Degree of respectability, Governor DesBarres furnished him with a Letter of Credit on his own private Agent to the Amount of £.800 for which he drew, and his Bills were duly honoured; But those, to a much larger Amount, were protested; but have been since paid with Interest and Damages. Two of these Bills, for £.100 each, I have received Payment for; I infer, that, as my Claim for Payment of One Part has been thought just, I am equally intitled to Payment of the whole Demand, &c.

Vide also, Captain JOHN ANDREWS' PETITION to the Lords of the Treasury dated 14 July, 1791, (Appendix B. 222). viz.

"That your Petitioner, being One of His Majesty's American Subjects, did during the last War exert his Loyalty to His Majesty in every possible respect, giving important Intelligence to the Commanders by Sea and Land, suffering Imprisonment, and, when he could no longer be useful or safe without the Lines, came to reside in New York—of which there are ample Certificates in the Office under the Hands of Sir Robert Pigott, who commanded in Rhode Island and of Sir Henry Clinton: and your Petitioner never received Payment for his personal Expences in such Services, nor any Gratification, but the Satisfaction

"of having done his Duty to his King and Country—which, upon similar Occasions, he would not hesitate, if he were a Subject, to do over again.

"That, in the Years 1784 and 1785, there was a Number of People in Rhode Island and the neighbouring Colony of Connecticut and Nantucket, who, partly from Uneasiness under the then unsettled State of the American Government, partly from the Attachment to the British Government, and partly with a View to take in a more enlarged sphere of Commerce, wished to remove into some of the British Colonies, and your Petitioner was One of the Number.

"That, in the Year 1785, some of Governor DesBarres' Proclamations, setting forth the Advantages of Cape Breton, and the Intention of the British Government to settle it, finding their Way to Rhode Island, had attracted the Attention of many of us, and particularly the Whalers of Nantucket, and many of us were inclined to embrace the Encouragement. In October 1785, Mr. Venture came to Rhode Island with Instructions from Governor DesBarres to confer with such as might wish to remove, particularly with the Whalers of Nantucket. We were happy to see him, as a Person capable of giving Information of Things there, and his Account gave us Satisfaction; for, though the Colony was distressed for Provisions, we considered it no more than might be expected in its earliest Infancy. Mr. Venture told us he was authorised, or wished to send a Supply of Provisions to Cape Breton, as it was actually in a starving Condition from a Disappointment of other expected Supplies; but he was under much Difficulty, especially from the Laws then recently passed in Rhode Island in Relentment to the Enforcement of the Navigation Laws of Great Britain.

"From the ancient Partiality to the British Government, considering Mr. Venture as the Servant thereof, and supposing ourselves on the point of becoming again Subjects to it by the prospective Removal to Cape Breton, we were, One and All of us, much inclined to help him out, and this Inclination we realised by our best Advice, giving all the personal Aid in our power, and furnishing him with whatever we had of our own to spare, as well as interposing our Credit for what he had of others.

"Upon these Principles, your Petitioner sold him, as acting for Government, Provisions, Molasses, Bricks, &c. to the Amount of £.845. 0s. 6d. Halifax Currency, in Part of Payment for which, he gave Bills for £.200 on Mr. Roberts (Governor DesBarres' Agent in London) and the Residue of the Payment was to be sent or remitted to your Petitioner from Cape Breton. The next Question was how to get a Vessel to carry these Goods to Cape Breton: The Owners of the Sloop Hannah (Captain Bowen) would charter her, if they could get Security for the Freight, and for her Safety from Seizure in the Ports belonging to Cape Breton, but, lest Mr. Venture should be at a loss on this Head, your Petitioner bound himself in Security therefor. The Goods were shipped, and the Hannah sailed for Cape Breton. Having nothing more to do in the Matter, than, in due time to receive Payment for the Goods and to be released from the Security he had gone into, he remained with his Family in Rhode Island, in order to prepare, in Concert with other intended Emigrants to remove in the Spring to Cape Breton.

"In the Course of the Winter, we had loaded with Provisions Household Furniture, &c.: Seven Vessels, and Twenty-three respectable Families, had prepared ourselves to remove to Cape Breton, with Property to the Amount of about Thirty Thousand Pounds, and a great Number of others would have followed us, as it was in Contemplation to go deeply into the Whale Fishery. In the Spring, we were actually ready to step on Board and to sail with the first fair Wind, when Letters were received, in different Parts of the Country, from Halifax, very abusive to Governor DesBarres, asserting that he was to be recalled for Misconduct and the Government to be broke up: A Letter was also received from Captain Drummond, then at Cape Breton, equally unfavourable. This occasioned great Embarrassment. In the height of this Perplexity (in May 1786) we were farther surprised to see the Hannah (Captain Bowen) arrive in the Harbour of Rhode Island. Captain Bowen reported to us, that, having sailed for Cape Breton, he had reached, in the Month of December, within five Leagues of Sydney Harbour, and had even handed a Leg of Mutton to poor People in a Boat belonging to the Island that had come along side; but, it being in the Evening and the Wind not favourable, before he could get hold of the Harbour, a most violent Snow Storm drove him to Antigua in the West Indies, where, having stated the Object of his Voyage and the Circumstances of the Vessel and Cargo to the Governor and Customhouse Officers, he was permitted to dispose of the perishable Articles: that, having done so and refitted the Vessel, he proceeded to Virginia to replace the Articles and return to Cape Breton; but, finding himself dangerously ill, he had now called at Rhode Island in order to be landed under the Care of his Family, and that another Master might be appointed to proceed with the Vessel. Captain Bowen was very ill indeed, and, having appointed his Mate to be Master endorsing his Name on the Register, died in less than a Week.

"Meeting thus the Hannah, the intended Emigrants laid our Heads together, and it was resolved that your Petitioner and Mr. Clarke should go Passengers in her, in order to learn the exact Truth on the Spot in Cape Breton, while the Vessels and Property we had prepared should remain as they were until our Return. We embarked and sailed within Six-and-thirty Hours from the Moment she had been brought into the Harbour by Captain Bowen. There went Two Passengers, who wished to go to Halifax, hoping to get a Passage there more readily from Cape Breton than from Rhode Island or any Part of the States. Sailing in the direct Course of our Voyage along the Coast of Nova Scotia and, being a-bread of Halifax Harbour, the Wind being contrary at South East and not having Two Gallons of Water on Board, the Master took the Boat and went on Shore, Mr. Clarke and your Petitioner accompanying him, the Vessel lying in the mean time in the Mouth of the Harbour. We waited immediately on Collector Newton at Halifax and informed him of the Circumstances, what was on Board, whose Property it was, and for what Purpose and Use. The Collector gave a Permit in writing, which also expressed the Concurrence of the Governor, for the Vessel to come into the Harbour to take in Water, and, while that was doing, for the Passengers to land, promising that no Injury should arise and that we might proceed on our Voyage so soon as Wind and Weather might permit. The Wind having subsided the

Hereupon, it was signified, that, on the 16th. January 1794, the *Chancellor of His Majesty's Exchequer* had declared the Account with a Balance, due to DesBarres from the Public, of the Sum of £.3758 15s. 6½d: (153); But that the said Account could not be finally settled until it were lodged in the Pipe Office, where a Quietus was to be made out, and that no time should be lost in applying at the Treasury and at the Exchequer Offices, to discharge the Fees, for passing it through those Offices; for, 'till that were done, he might still remain subject to the Exchequer Process (154).

DesBarres, feeling that Justice required no improper Sacrifice, only reiterated his Representations to the Lords of His Majesty's Treasury and supplicated their Lordships to be pleased farther to consider his Claim to Allowance for the remaining Surcharges (155). He submitted a Statement of Arrears incurred in pursuance of His Majesty's Royal Orders, and of Expences accrued by Law Suits, and Damages by Seizures and Devastation of his Property, &c: together with an Account of Advances also incurred by him, (in the period, from 1764 to 1784, for carrying on Surveys of the Coasts and Harbours in North America and constructing Nautical Charts for the Exigencies of the Public Service. (156). *The Equity of his Claim, in respect to the Arrears of his Salary and Compensation for the Losses sustained in his private Property, and for the Interests and Expences accrued in consequence of the Measures of Government, was fully acknowledged, and he was directed to adduce more particular Elucidation on the relative Points.*

Having accordingly prepared sundry Statements for elucidating the whole Business of the Accounts, he delivered the same into the Hands of the Secretary of the Treasury, for being laid before the Board (157), viz.

No. 1, *A General Account Current*, (158).

2, *An Account of the specific Articles of the Expenditure incurred in the Course of establishing and supporting the Infant Colony* (159) inserting therein such remaining *Arrears of Expences*, as had not been included in the Account previously laid before the Auditors (160), and respecting which he had requested the Directions of the Treasury (Vide Page 70).

"next Day, though still not very favourable, we proposed to proceed; but, when we called for the Register, the Collector refused to deliver it saying he must detain the Vessel, and he sent Two Tide Waiters on Board to seize her. Your Petitioner was struck with Astonishment, and could scarcely persuade himself that the Collector was serious. He argued, why the Vessel going with Provisions to the Relief of Cape Breton, knowing that Colony to be in the utmost Distress, should be stopped. The Collector answered, that the Government of Cape Breton, was going to be broke up; but that it would be no loss to your Petitioner, as he would be paid for the Provisions. We informed the Collector, that Twenty-three respectable Families of considerable Property had agreed to settle in the Government of Cape Breton in order to carry on the Whale Fishery upon the Encouragement of Governor Des Barres' Proclamation to Loyalists settling in his Government, and that we had loaded Seven Vessels with Provisions, &c. &c. and were ready to embark and would have sailed long ago, but for some Letters which had been sent from Halifax, which had occasioned much Perplexity and Fear of Disappointment among us, and that, thereupon, it had been agreed that Mr. Clarke and your Petitioner should take Passage in the Vessel to Cape Breton, in order to know the Truth and that the Families in Rhode Island and the Vessels should regulate themselves according to our Report. Collector Newton assured us that the Government of Cape Breton would certainly be broke up: that Governor DesBarres was trifling with us all; and that we had better come to settle at Halifax.

"The Tide Waiters remained on Board near Three Weeks, during which Mr. Clarke and your Petitioner had much Conversation with

"Collector Newton and his Brother the Surveyor: They said many ill-natured Things of Governor DesBarres, that he never meant to pay us, or any One; but only to get all he could in his own Hands. David Matthews, the former Mayor of New York and Attorney General of Cape Breton, was then at Halifax, and he assured us that he expected every Hour Governor DesBarres would be sent for Home and that he verily believed that the Governor would run away to Germany and get all the Property he could in his own Hands and never pay any Man a Shilling, &c: that himself had wrote to Connecticut and to all his Acquaintances who were coming to Cape Breton to settle under Governor DesBarres' Proclamation, to stop them from coming; for the Governor would deceive them: He mentioned that the Number of these Families amounted to One hundred and Fifty.

"Upon this, We wrote to Rhode Island to stop the Vessels and Families from proceeding to Cape Breton, and your Petitioner, at the same time, employed Messrs. Applin and Sterns to put in a Plea and defend the Hannah and her Cargo, in the Court of Vice Admiralty at Halifax. Having particularly urged the Circumstances of the Collector alluring us with the Governor's Concurrence and Promises of Safety into the Harbour to take in Water and to come on Shore, and then Seizing us without having committed any Fault, the Answer (in the Court) of the Attorney General (Mr. Blowers) was, that, as Collector Newton did not chuse to keep his Word, the Vessel and Cargo were subject to the Law of Condemnation. She was condemned, on the Principle as we understood, of Mr. Venture, a British Subject, having shipped the Provisions in her, an alien Bottom."

(153) This Balance consists of the Sum [*or Balance*] reported by the Auditors in February 1793, as due from the Public to DesBarres (Page 75) viz. 2213 18 1½
and the Amount of such of the Surcharges, as the Lords of His Majesty's Treasury had been pleased in the subsequent Month of August to take into Consideration, and accordingly ordered to be allowed - - - 1544 17 5½

£.3758 15 6½

(154) App. A. 91.

(155) Vide Page 78 and 79.

(156) Vide Address to the Lords of the Treasury (App. B. 140) and the Account of Disbursements incurred, from the year 1764 to 1784, in carrying on Surveys of the Coasts and Harbours in North America, and supplying Charts, for the Public Service (App. B. 144 to 146. Vide also Page 2 to 4.) Also Accounts, &c: (App. B. 147 and 148).

(157) App. B. 152.

(158) App. B. 153.

(159) App. B. 154.

(160) Vide: Abstract of Arrears &c: Page 82 & 83.

ARREARS.

EXPLANATION.

DECLARATION of Thomas Ashfield, Esq.
Clerk of the Crown of His Majesty's Supreme Court, &c.
One of the Officers of the Public Works in Cape Breton.

For Expenses incurred in
pursuance of His Majesty's
Royal Appointment and In-
structions, to repair, as Lieut-
enant Governor and Comman-
der in Chief, to Cape Breton:
viz. For Travelling Charges,
Voyage, transport of Baggage,
&c. - - - - - 315 0 0

The similar Expenses are usually defrayed by Go-
vernment.—DesBarres, having received his Instructions
departed in haste from London on the 8th of October
1784. Besides the Travelling Expence to Falmouth
with Suite and Servants, and of Passage (*per Packet*) to
Nova Scotia, he had there to procure a Vessel, and
defray the Expence, thence, to Cape Breton. When,
in the Month of December, he landed on the Southern
Shore of that Island, the Winter had already set in,
and he found himself under the Necessity, in order to
reach the Seat of Government, to incur considerable
Expence, for Assistance to transport Baggage and Ne-
cessaries, above One hundred Miles distant through
a deep Snow: all which far exceeded the Sum
charged.

" In the Months of August and September 1784,
" I was occasionally at Lieutenant Governor Des-
" Barres' House in Soho Square, London, where I
" had an Opportunity of seeing a Number of Men
" employed in packing a large Quantity of Books,
" Drawings, Furniture, &c: which were afterwards
" sent in Carts, from thence, to the Water-side, and
" shipped on Board of the Ship *Blenheim*, then lying
" in the Thames, bound for the Island of Cape Breton,
" and which, alone, must have been attended with
" great Part of the Expence charged in this Article. I
" left the Governor in London, and sailed from the
" Downs on the 4th October 1784, and I was at
" Sydney, when the Governor arrived (via Halifax)
" by way of St. Peter's Bay, over the Ice and
" through a deep Snow in January 1785, which last
" Part of his Voyage, I know, must have been very
" expensive, on account of the Number of Men, and
" Indians hired to get through the Danger and Diffi-
" culties with the Baggage and People he brought
" with him."

For D^o. in pursuance of
His Majesty's Royal Commands
to repair to England, for the
express Purpose of giving an
Account of the Proceedings
which had taken place in
Cape Breton, &c. - - 708 1 0

DesBarres, having received on the 12th July 1787,
His Majesty's Royal Commands to repair to England,
was under the Necessity of availing himself of the only
means to be found in the Colony for obeying them:
and that was—to purchase the Brigantine *Gaspey*,
which, and her Outfits, Ship Stores, Provisions, Wages
of her Master and Crew, &c: cost - 808 1 0
Arriving at the Isle of Jersey, in the
Month of December, after a tempestuous
Voyage across the Atlantic, in the State
of a Wreck, the said Vessel was after-
wards sold, for only - - - - - 100 0 0
£708 1 0

" It is a Fact, that there was no other Means of
" Conveyance from Cape Breton to England, and, that
" the Vessel mentioned in this Article was purchased
" and fitted out with Ship Stores and Provisions for
" that Purpose at Lieutenant Governor DesBarres'
" Expence. I have seen the Accounts of the Money
" that has been paid, and, from general Recollec-
" tion, I think they were to that Amount."

For D^o. paid to George
Smith for engraving Seals for
the Supreme Court of Judica-
ture, Customhouse, and Secre-
tary's Office, of Cape Breton 29 6 9

The Necessity of the Seals alluded to is evident.
They were engraved and used, and accordingly paid for
as charged.

" I know that the said George Smith was em-
" ployed by Governor DesBarres to engrave the Seals
" mentioned: and, myself having been appointed,
" by the Chief Justice, Keeper of the Seal of the
" Supreme Court, it was in my Custody until I left
" the Island, on my Return to England with the Go-
" vernor, and said George Smith was paid what is
" charged.

For D^o. Surveying Instru-
ments and Implements sup-
plied for the Public Service 102 9 9

The Letter and Spirit of His Majesty's Instructions
required that Settlements, Townships, and Roads of
Communication be regularly surveyed and conveniently
laid out, and that the Colonists be located without de-
lay in suitable Situations. Government not having
appointed Surveyors, DesBarres employed the fittest
Persons to be found on the Spot, and, under his own
Superintendence, the Service was well and satisfactorily
performed. Having necessarily supplied his own Instru-
ments and Implements to the Public Service, he is in-
titled to Reimbursement for their Cost.

" It was generally understood at Cape Breton,
" that Governor DesBarres provided the said Sur-
" veying Instruments for the Surveyors.

To D^o. paid to sundry
Persons for Writing Business
performed in the several Co-
lonial Departments - - 200 0 0
And for Fuel, Candles, Sta-
tionary and Attendants for the
Council Chambers, Offices of
the Superintendent and Over-
seers of the Public Works,
Commissioners for inquiring in-
to the Claims of Loyalists, Ex-
aminer of the Public Accounts,
Secretary, Public School, &c. 312 0 0

Upon forming the Government of Cape Breton,
there were no Departments established (as in other Co-
lonies) of Loyalists, Engineers, Surveyors, &c: Besides
the necessary Duty of these, there was, under the cir-
cumstances, an extraordinary Accumulation of Writ-
ing Business, which required to be expedited: upon the
whole, Dispatch, Regularity and Perspicuity, were in-
dispensable. It was absolutely necessary to make out
descriptive Lists of the Settlers, and to keep proper
Registers of their Names, Abilities, Professions and
respective Lines of Pursuit: of the Number of Persons
contained in their Families: of their Applications re-
specting Lands, Assistance and Support, &c: Records
were to be kept of all Orders and Warrants of Sur-
vey, of Plans Descriptions and Boundaries of the Re-
servations made for the Use of the Crown, of Town-
ships and Settlements and appropriated Locations to
Individuals, of Letters of Occupation and Grants un-
der the Colonial Seal, &c: The Department of the
Loyalists and of the Public Works and Accounts re-
quired also the constant Employment of Clerks: as
well as the Department of the Colonial Council (fair
Copies and Duplicates of the Minutes, Ordinances and
Documents whereof were, in pursuance of the Royal
Instructions, to be transmitted to His Majesty's Se-
cretary of State, to the Lords of the Privy Council and
to the Governor General in America)—But it were
impossible, without entering into a painful Detail, to

" There was a vast deal of writing done, and
" many Persons were employed therein in all the De-
" partments mentioned in this Article, and I am
" fully convinced that the Charge thereof is not
" more than has actually been paid.

" Being employed in several of the Public Offices
" in the Island of Cape Breton, I had an Opportunity
" of witnessing the Expenditure of Fuel, Candles
" and Stationary, and that the same were supplied
" at the Expence of Lieutenant Governor DesBarres
" and having been in the Island all the Time Go-
" vernor DesBarres was there, and acquainted with the
" Expence of the said Articles, I think the Charge is
" reasonable.

Carried on - £. 1666 17 6

ARREARS.

EXPLANATION.

DECLARATION, &c.

Brought on 1766 17 6

convey any adequate Idea of the Intricacy and Labour of the voluminous Writings occasioned, besides, by the series of vexatious Events there.

Over and above what had been paid to Mr. Perry and those employed with him in transcribing Minutes, Ordinances and Documents of the Council to Midsummer 1786, DesBarres was under the necessity of defraying, not only the similarly required Copies of the subsequent Minutes, &c, up to the Period of his Departure from the Colony in Autumn 1787; but also of all the other more laborious and voluminous Writings in the other Departments, and accrued in the Way alluded to.

Fuel, Candles, Stationary and Attendants, were also indispensably necessary, and such are usually allowed in the similar Departments in the Colonies. The Reimbursement of the Expence incurred therein is justly due.

Placed, as DesBarres was, amidst a needy, distressed, and clamorous, multitude, which had been invited by the Royal Authority to people and settle a desert Country for the national Advantage and labouring under the Privation, even, of that Relief which Government was as that Period in the Course of administering to the Loyalists and other Objects of the national Humanity in the other Colonies (though in an advanced State of Cultivation and having internal Resources) it was his Duty to use all means in his Power for preserving the Lives of His Majesty's Subjects under impending Famine, and to support, as well the Faith of Government, as the Public Interests: and (annoyed as he was besides by the Machinations of the Enemies of the Ministerial Measure for colonising Cape Breton) the Execution of such Duty was extremely difficult.

The Expences stated and charged were obviously unavoidable. DesBarres is therefore intitled to Reimbursement.

" Albert Rose was dispatched as mentioned, and has been paid.

" Jacob Miller was sent with Dispatches to the Governor, in October 1786, when the Governor was laying out Fishing Settlements in the District of Louisbourg, and he was paid.

" Christopher Miller and the Indian mentioned were hired, to guide the Loyalists in March 1786, to St. Peter's Bay, and were paid."

" I have seen Mr. Venture's Account of his Demand for the Article mentioned, which has been paid to him.

" Mr. Sweet was sent to Halifax in 1785 to procure Provisions for the Settlers, and returned to the Island with a Cargo of Flour and Pork, and he received the Sum charged in this Article for his Expences.

" I recollect that Governor DesBarres sent Joseph Gravois, in the month of September 1785, to the Settlements in the Gulph of St. Lawrence, and that Captain Gravois returned in November with a Schooner loaded with Provisions, salted Salmon, Potatoes, &c: from the Bay of Chaleurs, which were issued to the People.

" I remember perfectly well, that in the Month of March 1786, when the Inhabitants of Sydney and in the Neighbourhood were nearly starving for want of Victuals, Governor DesBarres sent his Son with a Party of One Hundred of the stoutest men in the Settlement to Arishat Harbour, to get as much Provisions as they could bring out of the Cargo of the Brig Rachael, which had been purchased, and laid there frozen in the Ice, and that the Party of Men were supplied with Clothing against the Severity of the Cold, and with Sledges, Snow Shoes, &c: at the Governor's Expence, there being then from Six to Seven Feet of Snow on the Ground: also, that the said Men were paid, at the Rate of, from Thirty Shillings to Three Pounds, each, for their Trouble."

" I know that Mr. Chief Justice Gibbons was indebted the Sum mentioned in this Article for Money advanced him by Governor DesBarres, having had Mr. Gibbons Account thereof in my Possession, and, that the Governor has declared he would wave demanding Payment of Mr. Gibbons until Government shall make an allowance to Mr. Gibbons for his Expences, when he was sent by advice of Council to England in June 1786, to explain the State of Affairs at Cape Breton to His Majesty's Ministry.

" Having been One of the Overseers of the Public Works and also employed in the Office of the Examiner of the Public Accounts in Cape Breton, upon Lieutenant Governor DesBarres's Return to England, it was thought expedient that myself and the Superintendent and Paymaster should accompany the Governor, which we did, and we were detained at his Expence, for the Purpose and Time mentioned in this Article.

" Salisbury Street,
4th February 1795.

" T. ASHFELD."

To D^o. paid to several Persons dispatched on the Public Service, and in quest of Provisions, viz.

Albert Rose, to Windsor and Falmouth in Nova Scotia	-	11	13	0
Jacob Miller with Dispatches to Louisbourg	-	2	14	0
C. Winter, and an Indian, for guiding a Party of Loyalists through the Woods, from Sydney to St. Peter's Bay	-	3	3	0
Tha. Venture, to Rhode Island	319	8	10	
Richard Sweet, to Halifax	-	33	6	0
Joseph Gravois, to the Settlements along the Coasts of the Gulph of St. Lawrence	-	27	0	0
For Equipment of, and Allowance to, a Party of One hundred Men, sent from Sydney in March 1786, through the Woods and a deep Snow, to St. Peter's Bay & Arishat Harbour	300	12	0	

For D^o. to Chief Justice Gibbons, sent to England, by Advice of the Colonial Council, to lay the State of the Colony before His Majesty's Ministers

- 104 2 1

For D^o. for bringing to England the Superintendent and Paymaster and One of the Overseers of the Public Works at Cape Breton, to be examined and minutely to explain to Government all the Circumstances and Transactions respecting the Expenditure and Accounts: and for their Support during their Detention above a Year for that Purpose

300 0 0

£.2768 16 5

Considering the vague and unfounded Imputations contained in Lord Sydney's Dispatches, and that no Remarks on, or Objections to, the Accounts had, according to the usual Practice of Office, been transmitted to DesBarres, he found it necessary to bring Home the Officers alluded to, in order to elucidate all Matters and Circumstances whatever relative to the Expenditure and Accounts, with which, considering the Situations in which they had been employed, they were perfectly acquainted. The Justice due to the Public, as well as to DesBarres, required this Step to be taken. The Conjunction of Affairs rendered it unavoidable. It is just therefore that the Expence accrued thereby be defrayed by Government.

- 3, *A Statement of the Objects of the Public Service, in the Prosecution of which the Expenditures had been incurred* (161).
4, *Explanatory Plans of Settlements laid out, and Buildings erected for the Public Use* (162).
5, *An Account of Law Charges, Damages and Losses, &c.* (163) to which a Declaration

(161) App: B. 155.

(162) App. B. 156.

(163) Vide: *Statement of Losses, Damages, &c.* the principal Heads of which are; viz.

ON Expence incurred for Equipment and the providing of Stores and Requisites, upon being ordered in 1784 to proceed as Lieutenant Governor to Cape Breton, a considerable Part of which, at the Period and under the Circumstances of his Return to England in pursuance of His Majesty's Royal Command, were unavoidably left there and have since been abstracted or fallen into decay (a) above . 1000 0 0

ON the Sale (at Auction) of his House and Property in Soho Square and selling out of the Public Funds (when so low as 57) for carrying on the Public Service; and, subsequently, in the raising of Money, for his Support, under the disadvantageous Circumstances of his oppressed Situation [b] above . 1500 0 0

ON Advances made to necessitous Settlers and Families burthened with numerous helpless Children, which they had engaged to repay by means of Labour, (c) but which could not be effected, in consequence of the Measure of Government, upwards of . 1200 0 0

BY Seizure, under Pretence of Authority from Government, of sundry Plantations in Cape Breton, on which DesBarres had settled Twelve Families in indigent Circumstances, and supplied them at his Cost with Stocks of Cattle, Provisions and Implements (d) for carrying on Agricultural Improvements, in which, and for erecting a Saw Mill, building Two Lime Kilns, &c: he had expended above 3000 0 0

BY Expences incurred for defending numerous Law Processes, instituted against DesBarres to recover Payments of Supplies furnished by sundry Persons for the Public Service at Cape Breton, and by damages accrued in consequence of Executions levied therefore on his Property and of the Seizure and Devastation thereof (e) far exceeding the Sum of . 7000 0 0

BY the Mutilation and Plunder of an irreparable Collection of Books and Manuscripts, Surveys and Soundings of Harbours and Coasts, Plans of fortified Places, Military Observations and Designs of Enterprise and Defence, &c: the Result of many years Attention and Labour, and of above £2000 of Expence spent in the Acquisition thereof (f) which DesBarres had been led to expect the Honour of devoting to the Prosecution of an Object of Public Utility, which it was in the Contemplation of Government to promote. (g) . 2000 0 0

BY Expence incurred for cancelling sundry Bills of Exchange, drawn for the Public Service in Cape Breton, (amounting to the Sum of 3982*l.* 3*s.* 7*d.*) Costs of Protefts, Damages, &c: for Agencies and the Expence attending the Employment of sundry Persons in copying Representations, Memorials, Accounts, &c, in the long Course of soliciting a Settlement and Redress (h) above . 1000 0 0

£.15,700 0 0

[a] App. C. 525.

[b] App. C. 526.

[c] App. C. 527.

[d] App. C. 528.

[f] The Property, here alluded to, consisted of several Tracts of Land, Situate in the Province of Nova Scotia, in the Purchase of which in the Year 1761 and subsequently, and for stocking the same with Cattle, erecting Buildings, Cultivation (particularly for dyking, draining, and bringing into arable State, a considerable proportion of the Marshland thereof) and establishing upon the whole above One hundred Families thereon, DesBarres had laid out upwards of Twenty thousand Pounds.

The Creditors for Supplies to the Public Service, having obtained Judgments, respectively levied Executions, and, not only the Cattle and Produce were sold by the Sheriffs' Officer and carried off the Premises; but the Property of a considerable Part of the Soil was also conveyed to them according to the Laws of that Province. (Vide, Judgments obtained and exhorbitant seizures made, by John Jodrit, Niel Robertson, Tremaine and Company, Samuel Sparrow, Hall and Company, James Kavanaugh, &c: &c: for only £.11,641 1*s.* 1*d.*); No Remittance whatever has been received since the Period of the said Executions and Seizures from the said Property—the Proceeds thereof, (reduced by these Derangements) has been applied towards defraying Law Expences, repairing Devastations, and reinstating the Tenants.

The Explanations contained in the following Letters (App. 497) may conduce to form an Idea of the Damages sustained by said Seizures; viz.

"Eaton Street, 2d May 1795.—As you are well acquainted with the Produce and Value of Land in Nova Scotia, and have frequently been on several of my Estates, which, since 1787, have been seized by sundry Creditors for Supplies to me for the Public Service in Cape Breton, viz. Tatmegoushe, Castle Frederick, Menaudie, &c: I have to request the Favour of your Opinion respecting the average annual Produce and Value of them, in their State of Improvement at the Period of the Seizures thereof, or what you think they were capable of yielding and what they ought to have yield to me from that period to this Time: And, more particularly, Menaudie (being One of the best cultivated Tract of Land in that Country) consisting of Seven thousand Acres, in the following Proportions and Quality, nearly, viz.

Upland	{	Wood	3000	{	The Tenants (between Thirty and Forty Families) are bound in Common, by Leases, to yield One Third Part of all the Grain whatsoever, and One Half of the Increase of Cattle, raised on the Premises. This Settlement was begun in 1767. The Tenants were supplied with Provisions, Tools, Implements of Agriculture, Working and Breeding Cattle: All Expences of Dyking were defrayed to them, and they were allowed Seven Years Rent free, &c:
		Pasture	1000		
		Arable	300		
Marsh	{	Undyked	1500	{	
		Dyked	1200		
			7000		

"In short, I beg you will say what you may think yourself free to declare, &c.

"To Joseph Gray, &c.

"J. F. W. DESBARRES."

ANSWER:—"Edgeware Road, 20th May 1795, viz.—IN compliance with your Request, I have to observe, that Judge Deschamps, whom you well know, and other Gentlemen of the first Character in Nova Scotia, have taken pains to collect Informations and Opinions of the ablest Farmers in that Country, and therefrom have composed a Table which is hung up as a Criterion in many of the Farm Houses there, viz.

	When sowed.		When reaped.		Weight per Bushel.	Produce per Acre in Bushels.		How many, for One Bushel.	
	Summer Grains	Winter Do.	Summer Grains	Winter Do.		Dyked Marsh.	Upland	Dyked Marsh.	Upland
Wheat	from 1st to 30th April	in all Sept.	from 12 to 24 Aug.	in all July	58 to 62	25 to 30	22 to 25	15 to 19	11 to 13
Barley	from 1st to 20th May	Do.	from 1 to 15 Aug.	Do.	45 to 53	—	22 to 28	—	9 to 11
Rhys	in all Ap. Do.	Do.	in all Aug. Do.	Do.	45 to 53	—	24 to 30	—	12 to 15
Oats	latter End of April & all May	Do.	Beginning of Aug.	Do.	36 to 42	—	44 to 50	—	16 to 20
Pease	latter End of Ap. & to 30 May	Do.	latter End of August	Do.	58 to 62	—	20 to 24	—	14 to 17

"Upland Hay, is mowed, from 1st to 20th of July.
"Silt Marsh Do., from the latter End of August to November.

"There are many Instances of a greater Produce from Lands in Nova Scotia, than what is set down in the above Table. I will only mention to you, that my Uncle John Burbidge, Esq. (a Native of the West of England, who has been carrying on a very extensive Farming Business ever since the Year 1761 in Nova Scotia) *sowed*, on the 28th of April, *Three Bushels and a Half of Wheat* on something less, than *Two Acres of New dyked Marsh*, and *reaped*, on the 2d of September (which was a Fortnight too late owing to bad Weather) *Sixty Seven Shock of Twelve Sheaves* each estimated at Five Pecks, which yielded *Eighty Bushels* and something more.

"The Soil of Menaudie is undoubtedly as good as any in our Province, and the Situation, being accessible to Shipping, makes it very convenient for exporting the Produce to any Market. Large Bodies of Land, I must observe to you, are seldom cultivated entirely for Grain, and it is found more suitable and profitable to lay down a considerable

on Oath before the Barons of the Exchequer and other elucidatory Papers were subjoined (164.)

While DesBarres' Case was confessed to be extremely hard, and that its peculiar Nature and Circumstances required a Liberality of Investigation and Consideration, it was also acknowledged that the Treasury Board had in itself no discretionary Powers, for redressing it; but, that it was the exclusive Province of His Majesty's Secretary of State, in all extraordinary Cases to which the Official Rules and Forms were found to be inapplicable; to recommend the Interposition of Equity. The Difficulty now was, how to bring the Secretary of State, to revise a Mass of Matter of such long standing, and to report thereon; so as to authorise the Treasury to follow, in its Proceedings, the Dictates of Equity according to the Merits of the Case (165):

"part in Grass for the raising of Stock, which, besides, answers the purpose of fallowing: Accordingly, admitting that only One Half of the arable Upland and dyked Marsh contained in your Estate of Menauldie is ploughed for Grain, the Calculation will be as follows: viz.

<i>Bush. of Wheat.</i>	
"Produce from 600 Acres of dyked Marsh, at 22 Bushels per Acre	13200
"Ditto from 150 Acres of arable Upland, at 20 Ditto per Acre	3000
	16200
"Deduct Two Thirds, for Labour and Expence, or as allowed to your Tenants per Leases	10800

"Remains to you, as the Proprietor 5400
"Whether the Land is sown in Wheat, or any other Grain, I am confident, my Calculation will not materially vary, as the Crops will generally answer the like value nearly.

"With respect to the other Moiety, viz: 600 Acres of dyked Marsh and 150 Acres of arable Upland, to which add the remaining 1000 Acres of undyked Marsh for Salt Hay, 1000 Acres of Pasture, and 3500 Acres of Woodland fit for the browsing of Cattle, by being applied to the raising of Stock, is capable of yielding (under able Farmers) a far more valuable Amount; But, in order to allow for Occurrences and Accidents, I will here estimate the Produce of it, as if worth no more, than that of the former, And, therefore, I will rate the Annual Produce of your Menauldie Estate at the Value of 10800 *Bushels of Wheat* at the lowest.

"I will, at my first Leisure endeavour to make out a farther Account and State of what appears to me to be the actual Value of the annual Produce of some of your other Estates. I might have given you a particular Detail of them, from the Informations I had collected on the Spot, had I not been under the Necessity of throwing my Papers over Board, when I was taken Prisoner to France. However you may rest assured of having, on my Return to Nova Scotia, every particular you can wish. &c."

To Lieutenant Governor DesBarres."

"JOSEPH GRAY."

(f) App: C. 539.

(g) EARL HOWE, in the View of benefitting Navigation and Commerce and of acquiring for the use of His Majesty's Service in the Operations of War necessary Information, had in Contemplation to establish a Depot and institute an Office in the Admiralty, for the Purpose of forming an arranged Collection of all useful Surveys, Charts, Plans, and Descriptions of Countries, Coasts, Harbours, Fortresses, Commercial Places, &c, that could be procured.

The said Surveys, Charts, Plans, &c: were to be minutely examined in order to ascertain their respective Degrees of Accuracy. The defective or dubious Parts therein were to be pointed out, for the Purpose of putting Navigators on their Guard, and that the same be, by subsequent Observations, rectified: and, in the Object of averting as far as practicable the Disasters to which Navigation might be exposed from the delusive Use of erroneous Draughts, it was proposed that the thus examined Charts, &c: should be distinguishable by some Official Stamp Mark.

At the fitting out of any Fleet, Squadron, or particular Ship of War, wherefoever destined, the Commanding Officers were to be supplied, from the said Depot, with such Surveys, Charts, and Plans, of the Coasts, Harbours, and Places, to which they were to be sent, and with such Extracts of Observations, Journals, &c: as should be thought requisite for

their Information and the Service they might be ordered upon—All which, on the Return of said Fleet, Squadron, or Ship, from their Expedition or Voyage, were to be rendered into the said Depot, together with all Discoveries made in respect to Longitudes, Latitudes, Banks, Rocks, Shoals, Soundings, Currents, Tides, Variations, &c: and whatever Alterations or Additions might be perceived in the Fortifications, or Strength of Places, their Policy, or Government, &c: And, for the easier and more effectual Performance whereof, and that the same might at all future Times be readily resorted to, Books prepared for that peculiar Use were likewise proposed to be furnished to said Commanders.

In Cases, when it might appear expedient, to keep from an Enemy's early Knowledge the Destination of His Majesty's Armaments, the requisite Surveys, Charts, &c: were to be delivered, or transmitted, under Seal to the respective Commanders, with their sealed Instructions and Orders, to be opened at Sea in such Longitudes and Latitudes, as might be judged proper to appoint. A Blow, meditated in the Cabinet upon an Enemy, to be supported by Reinforcements to join in certain Longitudes and Latitudes or particular Port for effecting the same, evinces the utility of such a Measure.

It appeared equally important also to the Trade of these Kingdoms, that Commanders of Convoys be furnished with Charts from the Admiralty—they frequently receiving at the shortest Notice an additional Number of Ships, bound to Ports they are unacquainted with, and have not the Opportunity of providing good Charts and Informations: And, although the Masters of Ships of War are usually ordered to supply themselves with such; yet, it is universally understood, that very few of them are in Circumstances to afford the requisite Expence, if, even, such might generally be procured.

It appeared just also that the Public and Posterity should reap the Fruits of the good Intentions of Government in causing Surveys and Discoveries to be made, which unless preserved, improved, and circulated, His Majesty's Service and Navigation might continue to experience the same Disadvantage and Fatalities, as if such Surveys and Discoveries had never been effected.

Whenever requisite to survey any Part of the Coasts of this Kingdom, its Harbours, Landing Places, Piers, &c, for their Improvements, Enlargements, or Repairs, or in the View of Defence against an Enemy, the Officer charged with the Direction of said Depot and his Assistants were to be ordered to perform the same; whereby no Alteration in the Navigation and Public Security could have happened but might have been immediately observed and remedied.

By means of the lights to be derived from the collected Body of the general and particular Informations alluded to combined with a Competency of Military Talents, Designs of Enterprize and Diversions might opportunely have been concerted: the requisite Force, its Disposition, and the attendant Expence for executing the same, might, with a considerable Degree of Certitude, have been pointed out, traced, and estimated: Causes of Disappointment timely obviated, and success rendered of course less precarious, &c. &c.

Such were the obvious Objects of the Institution, which Earl Howe had in Contemplation to establish for the Support of the National Honour, the Prosperity of Commerce, and the Security of the British Empire, —the Benefits whereof, and from the Improvements of which it were capable, appear to be incalculable.

[b] App. C. 530.

* The Losses and Damages sustained, by DesBarres, have far exceeded the above stated Amount—for which although he might perhaps be strictly intitled to claim full Compensation; yet, only takes leave here most respectfully to submit the same together with the Interests accrued on the Advances incurred in the Prosecution of his Duty, for equitable Consideration.

(164) App: B. 161, 164, 167.

(165) Vide: the following Letter to the Secretary of the Treasury dated 17th July 1794, (App. B. 151). viz.

"Ever since Monday last, when I had the Honour of an Interview with you, I have felt an inexpressible Anxiety of Mind upon reflecting on the probable Result from my being again referred to the Auditors, where (I painfully feel) many of the essential Points of my Affairs have been misconceived

DesBarres was advised to move for the Secretary of State's official Letter, in order that in the mean Time the Arrears of his Salary might be paid to him. Accordingly, in January 1795, he addressed a Memorial to the Duke of Portland for that Purpose (166), and, subsequently, repeated his Application in another Memorial, explaining therein the Grounds of his Claim thereto (167); Not

"or overlooked, and whose Official Rules, in the view of Justice to my Case, appear to be inapplicable. My Accounts and explanatory Papers, if honoured with Attention, must be found perfectly clear and evident. I am apprehensive that your Goodness in speaking to Mr. Dundas (as he is now out of the proper Office) may not produce the desired Effect. It were to be wished that yourself and Mr. Pitt would inform the Duke of Portland, that the Lords of the Treasury are so far satisfied in respect to my Accounts, that my Credit and Honour stand clear with their Board:—and, that Mr. Dundas would add what he has said to Sir William Dolben, Mr. Windham and other Friends, as well as to myself—that there exists no Complaint whatever in the Secretary of State's Office against me, or, to speak more truly, that Mr. Hurd (who brought Home the Complaint) declared that he could not support it, and that several of the few Hands subscribing it were forged, &c.

"Charles Long, Esq."

"J. F. DESBARRES."

(166) App. B. 159, viz. "To His Grace the Duke of Portland, &c. &c. &c. The Memorial of Lieutenant Governor DesBarres—*most humbly praying*: That your Grace may be pleased to give the usual Directions for Payment of the Memorialists' Salary, (from the Time to which it has been paid) to the last Quarter, ending the 25th December 1794, &c. 1795."

The State of the Account for Salary stood as follows, viz.

Dr.		Government—in Account for Salary with—Lieutenant Governor DesBarres.		Cr.
1794,				
Dec. 25,	To Salary as Lieutenant Governor of His Majesty's Island of Cape Breton, from the 25th of June 1784, to the 25th of December 1794 at the Rate of 500l. per Annum		5250 0 0	
		1784,		
		Nov. 25, By DesBarres' Draft on (the Colonial Agent) R. Spiller		125 0 0
		1786, Sept. 1. Do.		500 0 0
		1788, Jan. 23 Do.		375 0 0
		1788, Mar. 1. Do.		220 0 0
		1788, Do.		50 0 0
		1788, Do.		30 0 0
		1788, Do.		20 0 0
		1788, Apr. 19. Do.		50 0 0
		1788, Aug. 30. Do.		40 0 0
		1788, Dec. 12. Do.		40 4 9
		1784,		
		Dec. 25. Balance due to DesBarres		1490 4 9
				3759 15 3
			£.5250 0 0	£.5250 0 0

(167) App. B. 162, viz. "To His Grace the Duke of Portland, &c. &c. &c. The Memorial of Lieutenant Governor DesBarres, Lieutenant Colonel in His Majesty's Service *most humbly sheweth*.—" THAT the Memorialist is able and anxiously desirous to be useful [a] but it depends solely on the Operation of Ministerial Justice to break the Fetters of his Abilities, by condescending to consider his Case and rectifying the grievous Points thereof—That he served ever since the Commencement of the War of 1756, during the Course of which, in every Campaign, his Zeal gained him Reputation: and, at the Instance of General Wolfe, was honoured with a Letter, by the late Earl of Chatham, signifying the Approbation of His Majesty's Royal Grand Father, and a Circumstantial Mark of the Royal Confidence in his Ability and Conduct. That upon the close of that glorious war He was ordered to carry on Surveys of the Coast and Harbours in North America, and to construct Charts thereof for the Service of the Royal Navy and the Commerce of these Kingdoms: and his unremitting Exertions and Labours, during a Period of Twenty Years in that Prosecution were acknowledged to have essentially benefited the Service of his Gracious Sovereign and the Public in general: Whereupon the Lords of the Privy Council and of the Admiralty were pleased solemnly to declare to His Majesty that they thought him to be deserving of some Mark of the Royal Favour, for his Diligence, Perseverance, and Ability, in the accomplishment of that difficult and arduous Service—That, in the Course, (in order to obviate Disappointment, from the insuperable Delays in the Issues of Payment for the support of the Undertaking, and ascertain to the Public Service the Benefit of his Exertions and Labour), he necessarily advanced his private Fortune, as well in Reliance on the Encouragements held out to him and the Faith of the Promises of Reimbursement and Remuneration, as in the View of acquiring farther Reputation. That such Promises remain unperformed: and, although, in supplicating the Reimbursement of his Advances and the Reward of his Labour, he has not shewn the similar Ardour which impelled him in the Prosecution of the Service; Yet he trusts that the Sacrifice thereof could not be desirable, consistently with His Majesty's Royal Magnificence and the liberal Justice of the generous Nation, to whose Fleets and Commerce his Exertions and Labours have afforded Security and Benefit in the Amount of Millions.

"That the declared Motive of his Appointment in 1784 (at the Period of the Adoption of the Measure for the colonising the Island of Cape Breton) was to assist an Officer who had served well and had not been recompensed for his Services, and who was likely to render farther Services in the particular District of His Majesty's Dominions to which he was to be sent. That accordingly, in the Prosecution of the Object of his Mission which was, to—afford an Asylum to the Loyalists and other destitute Objects at the Conclusion of the War in America and revive the Advantages which France formerly enjoyed from that valuable Island, for the benefit of this Country, he did his best: and so far had the Difficulties been surmounted and the Infant Colony brought into a prosperous Course, that, in a little more than One Year, between Three and Four thousand people had been settled, and the Exports of their Industry exceed d £.40,000, (as appears by Inspection of the Custom house Returns for that Period, transmitted to Office) and which, but for Perversions which it were to hope Government would have repressed, might at this Day, besides the Ascertainment of other more important Advantages, have exceeded half a Million annually. That, while he was thus efficaciously intent and ardently endeavouring to merit farther Approbation and additional Marks of the Royal Favour—having faithfully reported the State, Circumstances, Exigencies and Progress of the Colony—supplying in the meantime the Omission of Support from Government with his personal Resources and Credit, his Remonstrances were not only disregarded, but Misinformations calculated to frustrate the Ministerial Measure were received and inconsiderately adopted, in the Public Offices, calumnious Imputations were inserted in the Official Reports upon the Accounts periodically transmitted of his Advances for the Support of the Infant Colony, and the farther Reimbursement thereof was stopped; and, though it naturally might have been recollected that the Sums paid in part of his Advances, for the Support of the Loyalists, for carrying on the necessary Buildings, such as Barracks, Magazines and Accommodations for the Troops and the Civil Establishment, and for all the obvious Exigencies of commencing the Settlement of a Country in a State of Nature (and where the Colonists, being of the neediest Class must be supplied with Provisions, Clothing, Means for erecting Habitations, and all the Aids which Government was then in the Course of administering to the like Objects in the neighbouring Province, or they must have perished) did not amount to £.6000; yet it was reported that he had received and lavished large Sums of the Public Money: Whereupon the Public Creditors grew clamorous, and his Pro-

receiving any Answer for a long Time, he submitted for the Consideration of his Gracious Sovereign a Statement of the Zeal and Utility of his Services and entreated that His Majesty's Secretary of State would be pleased *officially* to lay the same before His Majesty, for the Royal Justice (168). Whereupon it was signified, that, *His Majesty having been pleased, by a Commission bearing Date the 26th of February 1787, to appoint William Macarmick, Esq. to be Lieutenant Governor of Cape Breton, the Salary thereof had been paid to him from that Period.* (169).

Upon Receipt, from His Majesty's Secretary of State, of this Intelligence, so inconsistent with the Tenour of preceeding Official Informations, Declarations and Facts (170), DesBarres again, remonstrated and repeated to the Duke of Portland his Instances for officially laying his

"erty became their Prey. That, in this Conjunction of Things, he received a Dispatch from His Majesty's Secretary of State (Lord Sydney) signifying His Majesty's Royal Commands for his coming to England, to give an Account of the Proceedings which had taken place and answer Complaints, alleged to have been exhibited against him. That, immediately upon his Arrival in London, in Spring 1788, he earnestly prayed to be furnished with Official Copies of the Complaints, and demanded a Trial: Justice, and the Public Interests committed to his Charge, required that he should be tried without Delay: If found guilty, he was to be punished: If meritorious, the unjust Stigma of Calumny was instantly to be removed: his Advances for the Public Service were to be justly considered and paid, and the Embarrassments brought on him, whether by Omission of Support, adopted Misinformations, or Departure from the Official Rules and Practice, were to be compensated. That, in the Privation of that Justice, to which, by the Constitution, he was entitled as a British Subject and an accused Officer, and which would have placed in their proper light the alleged Complaints, as well as the Merits of his Conduct in the arduous and intricate Circumstances of his Duty—a consideration of which well might have inspired a liberal Spirit of Impartiality in the Investigation of his Claim to Reimbursement and Compensation, instead of the vexatious Course to which he has been subjected, in the Scrutiny of the Account of his Disbursements for the Public Service, which, although it produced an unqualified Acknowledgment of his Rectitude and Honour; yet, in other Respects, has been a Means, by its long Duration, of aggravating his Injuries, in the Accumulation of Expence and in the mortifying and irreparable Waste of his Time and Talents and Disappointment of his Prospects in Life."

"That, having been advised at the Treasury to make Application to your Grace, for the usual Official Directions for the Payment of his Salary, he addressed, on the 19th Ultimo, a Memorial to your Grace, to which he now humbly takes leave to subjoin the following Facts and Reasons in Support of his Claim therein, viz. That as the Appointment of Lieutenant Governor was specifically given to your Memorialist for Services performed and not rewarded, he trusts that the Justice of His Majesty's Ministers will allow him to believe, that a Reward so obtained could not honourably be taken from him, without an equivalent.—That your Memorialist has been ordered to repair to England for the specific Purpose of giving an Account of Proceedings and to answer Complaints, and has been detained in painful and expensive Attendance on the Public Offices ever since. That His Majesty's Secretary of State officially signified, that Colonel Macarmick was sent out to act, only during your Memorialist's Absence, as Lieutenant Governor of Cape Breton, which Colonel Macarmick, upon his Arrival confirmed and farther evinced by stating the Circumstances and Conditions on which he had been sent thither—that all this was farther confirmed to your Memorialist in the Secretary of State's Office, after his Return to England; where it was solemnly declared that he had not been superseded; but continued still to be the Lieutenant Governor of Cape Breton, and that he would not be superseded, as he had received the Appointment in Reward for Public Services."

"Your Memorialist, most humbly and fervently implores the Interposition of Your Grace's Justice to promote his Relief, and enable him to devote his Faculties to the Service of his Gracious Sovereign and Country, &c."

9th February 1795.

"J. F. W. DESBARRES."

[a] Des Barres humbly presumes, that (in the Conjunction of Affairs) he might have been usefully employed and perhaps have conducted to facilitate the Execution, of some particular Operations of War. Among Objects of inferior Public Importance, De Barres had, in 1794, submitted to (the then Commander in Chief) Lord Amherst an Engagement to raise, in Conjunction with some of his Friends in Germany, a Corps of Four thousand German Troops for His Majesty's Service. Men of distinguished Military Talents, Science and Experience, and Relatives to Sovereign Houses in Germany [in the View of securing Resources for keeping up the constant Completion of the Rank and File] were to compose the Officers of this Corps. Lord Amherst readily indulged the Hope of his Lordship's Recommendation of the Matter to His Majesty, so soon as DesBarres' Affairs should be settled at the Treasury—which he then had been led to expect would immediately take place.

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(168) Vide, Statement of DesBarres's Case and Memorial addressed to the King, and Letter to the Duke of Portland requesting His Grace officially to lay the same before His Majesty. (App. B. 168).

(169) Vide, the following Letter from the Duke of Portland, dated Whitehall 4th June 1795 (App. A. 94) viz.

"In answer to your Memorial, praying that the Arrears of Salary, which you state to be due to you as Lieutenant Governor of Cape Breton, may be paid to you, I am to acquaint you, that, His Majesty having been pleased, by a Commission bearing Date the 26th Day of February 1787, to appoint William Macarmick, Esq. to be Lieutenant Governor of that Island, the Salary of Lieutenant Governor thereof has, in the usual manner, of course been paid to him from that Period. I should have been glad, if your Memorial had been on a Subject admitting a more satisfactory Answer I am, &c."

Colonel J. F. W. DesBarres.

"PORTLAND."

(170) In the year 1782, His Majesty's Minister (Lord North) feeling the Importance of the Island of Cape Breton, relatively to the Preservation of His Majesty's Transatlantic Dominions, as well as with respect to its intrinsic Value, its Fisheries, and its peculiar Situation capable of being made the Emporium of Commerce of America, had directed DesBarres to prepare a Plan for carrying on its Settlement, and declared his Intention of committing to him the Execution thereof (a). Subsequently, in 1783, the Lords of His Majesty, Privy Council had, on a consideration of DesBarres' Services, officially reported to His Majesty that they thought him to be "*deserving of some mark of the Royal Favour, as a Reward for his Zeal, Activity, and Ability, in prosecuting and completing an arduous and difficult Work, productive of great Benefit and Utility, not only to His Majesty's Service, but to the Public in General*" (b). Thereupon, in Autumn 1784, DesBarres, having received His Majesty's Instructions and Commission as Lieutenant Governor and Commander in Chief of the Island of Cape Breton, was ordered forthwith to repair thither, under solemn Promises that all requisite Support for carrying on the Settlement

Memorial before the King and for receiving His Majesty's Royal Pleasure thereon (171): Proofs which DesBarres had witnessed, of His Majesty's gracious Disposition, to revise and generously to

thereof would be furnished (c). By uncommon Exertions, the Infant Colony was speedily brought into a prosperous Course (d)—notwithstanding the Disappointment of the requisite support of Government, and the most annoying Embarrassments from selfinterested and infatuated Individuals, superadded to the Difficulties necessarily attendant on commencing the Settlement of a Country in a State of Nature (e).

DesBarres had faithfully reported the Circumstances, Exigencies, and Progress of Affairs (f) Having used all the Care and Circumspection in his Power with respect to the Expenditures, and no Remarks or Objections to the Accounts thereof (which he had regularly transmitted to Office) having been returned to him, he conceived it reasonable to infer that they had been found satisfactory; and the result of his arduous Exertions, and Conduct in the Prosecution of the Settlement of the Colony, supported his Hopes of being thought deserving of His Majesty's unqualified Approbation. While thus intent and and Zealously endeavouring to promote the Objects of his Duty, clandestine Matters were received into the Public Offices and circulated under the Sanction of Official Authority, to the Prejudice of the National Interests committed to him, as well as of his personal Reputation and Credit (g).

By means of such Delusion, His Majesty's natural Benevolence and Royal Justice were misguided, and (without, even, giving him any Information of the Particulars, or affording him the Justice of an Opportunity, according to the Rules and and invariable Practice, of Justification) Measures were precipitantly adapted, founded on wild Reports and Fabrications, the Absurdity of some of which was obvious; and Proofs of the Futility of (h) the Residue were in His Majesty's Secretary of State's Office.

Accordingly, among sundry Dispatches from Lord Sydney (i) which DesBarres received on the 19th of July, 1787 There was one in which his Lordship, after premising that "*His Majesty, constantly inclined to view the Conduct of His Ser-*" "*vants in the most favourable Light, always feels great concern when their Proceedings do not appear to Him to merit Commenda-*" "*tion, was pleased to observe that, from the Measures which had been pursued, and the Complaints which had been in consequence*" "*exhibited against him many Doubts had been entertained of the Rectitude of his Conduct, and that, upon these Accounts His Majesty*" "*had thought it fit that his Lordship should signify to him His Royal Commands for his Return to England, as soon as possible to*" "*give an Account of his Proceedings, leaving the Island in the Charge of the senior Councillor until such Time as he might return*" "*thither, or that His Majesty might determine upon naming a Successor to him.*"

This Dispatch was forwarded from the Secretary of State's Office in the Month of April 1787, about Two Months after the alleged Date of the mentioned Commission to Mr. Macarmick, as appears by a subsequent Dispatch from Lord Sydney, bearing Date Whitehall 5th April 1787, which accompanied the same and confirmed the Tenour thereof (k). By the same Conveyance DesBarres likewise received the following Letter (l) forwarded also at the same Time, viz: "*Whitehall 5th April 1787. I*" "*have received the King's Commands to acquaint you that His Majesty has been pleased to appoint Lieut. Colonel Macarmick to*" "*act as Lieutenant Governor of the Island of Cape Breton, during your Absence: That Officer will very shortly proceed thither, in*" "*order to relieve the Person into whose hands the Charge of the Island may fall, upon your Departure from thence. &c.*"

"To Lieutenant Governor DesBarres."

"SYDNEY."

Mr. Macarmick, arriving at Cape Breton in the Month of October 1787, personally stated the Conditions of his temporary Appointment and Mission, and of his Expectations, on DesBarres Return to his Government, of being provided for elsewhere (m).

In Summer 1788, DesBarres was, in the most solemn and official manner, assured that he had not been superseded and would not be superseded having received the Appointment as a Reward for Services, and he was referred to Lord Sydney's Dispatches, as evincing the Truth of the Intentions and circumspect Proceedings of His Majesty's Secretary of State towards him (n).

In the month of March 1789, One of the Under Secretaries of State (Mr. Nepean), in the Presence of the other Under Secretary of State and of DesBarres, moved to Lord Sydney's Recollection the Orders he had received, and had complied with, in respect to the Stipulation with Mr. Macarmick: Namely, to apprise Mr. Macarmick that he was not to expect to remain in the Situation in which he was to be sent to Cape Breton, as DesBarres might return thither (o).

In November 1791, at the Office of the Commissioners for auditing the Public Accounts and in the Presence of the Inspector General of the Public Accounts, One of the Under Secretaries of State (Mr. Nepean) declared to DesBarres, that it was the Intention of Ministry, upon sending Mr. Macarmick to Cape Breton, to have divided the Salary of Lieutenant Governor thereof between Mr. Macarmick and DesBarres, but, upon considering that the said Salary was only £.500, per Annum, it was resolved that one of them should receive the whole of it, and that an adequate Provision should be allowed to the Other.

In the year 1793, a Gentleman of universal respectability (who had been informed of many Points of the Oppression, under which the Colony of Cape Breton, as well as DesBarres, laboured, and had frequently urged to His Majesty's Ministers the necessity of their Attention thereto, in order to promote a just Arrangement and Redress) called at the Secretary of State's Office, for the purpose of satisfying himself with respect to the Circumstance of the Appointment of Lieutenant Governor of Cape Breton: The Books in the Office were examined, and the Under Secretary of State (Mr. King) declared, that, it did not appear that Mr. Macarmick had been appointed to that Situation.

(a) Vide: Page 6, and App. B. 1 to 4.

(b) Vide: Page 4.

(c) Vide: 6 to 8, and App. 1 to 11.

(d) Vide: Page 10, &c.

(e) Vide Page 1, Occurrences, &c: &c:

(f) Vide: Page 8 and 9, &c. and App. B. 6. to 14, 20, 23 to 27, 31 to 35, 37, 39 to 46, 48 to 62.

(g) Vide: Page 53 and 54. Reports from the Secretary of State's

Office to the Treasury, and References from the Treasury to the Comptrollers of the Army Accounts, App. C. 458, 480 to 488.

(h) App. C. 366 to 368.

(i) Vide: Lord Sydney's Letters and Remarks thereon, Page 50 & 51.

(k) App. A. 46. (l) App. A. 45. (m) Vide Page 51.

(n) Vide Page 52 and 53. (o) Vide Page 56.

(171) Vide: DesBarres' reply to His Majesty's Secretary of State, dated 7th June 1795, (App. B. 169), viz.

rectify Official Proceedings, however formal and solemn and even to recall Appointments past under His Royal Seal and Sign Manual, upon discovering their Inconsistency with His Majesty's Royal Justice or Humanity, left no Doubt, that, when His Majesty's Attention should be moved, the injurious Points of his unexampled Case would of course be rectified (172).

An Umbrage in the mean time arose from a Circumstance which took place—Sir William Dolben, who, on Information of Matters, had, from humane and generous Motives and from a Regard to the Honour of Government and of the National Interests, frequently urged, to the Ministry, the Necessity of taking up the Consideration of the deplorable State of His Majesty's Colony of Cape Breton, and of investigating the Cause of the extreme Oppression under which DesBarres laboured—finding his Applications unavailing, at last, had pledged himself in Parliament to move for a general Inquiry therein. The Motion, being brought on, was opposed by the Chancellor of His Majesty's Exchequer—he said that, “all the just Claims of DesBarres were nearly satisfied,” and, in support of his Assertion, read a Report from the Commissioners for auditing the Public Accounts, which stated that “DesBarres Accounts were unvouched and unattested: so much so, as to warrant a Suspicion that a greater Demand was made by him, than he was intitled to: and, particularly so, as he had brought forward his Account for Four Years during his Government all which had been regularly settled, &c.” that “he thought it necessary to state these Facts to the House,”—“he was willing to lay before it the Papers relative to the Accounts; but, objected to going into any farther Inquiry.” DesBarres had declared on Oath, in the Court of Exchequer the Truth of the Claim contained in his Accounts, and the authenticated Declaration had been given by him into the Treasury. He recurred to that Office and requested a Communication of, in order to refute, that injurious Report and the Assertions founded thereon. The Communication of it was refused to him.

“I am this Minute honoured with your Grace's Letter of the 4th Current, signifying, in answer to my Memorial praying, Payment of my Salary as Lieutenant Governor of Cape Breton, that His Majesty having been pleased, by a Commission bearing Date 26th February 1787, to appoint William Macarmick, Esq. to be Lieutenant Governor of that Island, the Salary of Lieutenant Governor thereof had been paid to him from that Period. I take leave most respectfully to assure your Grace, that it has been solemnly declared to me in the Secretary of State's Office that Mr. Macarmick had been sent to Cape Breton under the particular Stipulation of acting there as Lieutenant Governor *only during my Absence*, and, that, for the Reasons alluded to in my Memorial, I was not superseded. With respect to the Salary, I was informed, by the (then) Under Secretary of State (Mr. Nepean), that, it being considered as too small to be divided between Mr. Macarmick and myself, the whole of it was to be paid to the One, and an adequate Allowance was to be made to the Other. Your Grace will naturally feel it to be clearly reasonable and just, that, having been called Home and detained in Attendance on the Public Offices, for the Arrangement of Governmental Affairs, the attendant Expenses ought accordingly to be defrayed by Government. I am aggrieved in many Points, and undoubtedly entitled to Redress. The National Interests, and the Honour of His Majesty's Government, demand an Investigation. I therefore humbly repeat my Instances to your Grace, for laying my Memorial before the King and receiving His Majesty's Royal Pleasure thereupon. I have the Honour to be, &c.

To His Grace the Duke of Portland, &c. &c. &c.

“J. F. W. DESBARRES.”

(172) Vide: the following Letters from His Majesty's Secretary at War, (App. A. 24 and 36) viz.

“War Office, 18th November 1785.—IN April 1784, when the Town Adjutancy of Louisbourg was understood to be vacant by Death, His Majesty was pleased to confer the same, on Major Thomas Moncrieffe; but, it since appearing that Mr. John Brown, who had that Commission from His Majesty, is still living, and at a very advanced Period of Life has no other Means of Subsistence for himself and his Family, and, it not having been the King's Intention, under these Circumstances to supersede Mr. Brown, I have the Honour to acquaint you, that His Majesty has thought proper to recal Major Moncrieffe's Appointment. I have the Honour to be, &c.

Lieutenant Governor DesBarres, Cape Breton.”

“GEO. YONGE.”

“War Office, 5th August 1786.—IN the Absence of the Secretary at War, who is gone into Devonshire for a short Time, I have the Honour to acknowledge the Receipt of your Letter of the 8th of July last, enclosing a Memorial from Mr. Moncrieffe late Major of Brigade in North America, and to send you a Copy of a Letter from Sir George Yonge to Major General Campbell on that Subject. I have the Honour to be, &c.

Lieutenant Governor DesBarres.”

“M. LEWES.”

“War Office 13th July 1786.—“I HAVE the Honour to acknowledge the Receipt of your Letter of the 8th of last Month, with a Memorial enclosed from Mr. Moncrieffe, and to acquaint you, that His Majesty has taken into Consideration the peculiar Circumstances attending Mr. Moncrieffe's former Appointment to be One of the Majors of Brigade to the Forces in North America, as well as the great Inconveniencies to which he has lately been subjected, by being named to a Situation in Cape Breton, which now proves not to have been vacant as had been understood; and, as Captain James Campbell of the 42d Regiment, who at present acts as Major of Brigade under your Command, is to accompany you to Europe, His Majesty has thought this the most favourable Opportunity to provide for Mr. Moncrieffe, by restoring him to his original Appointment. It is accordingly His Majesty's Pleasure that Mr. Moncrieffe be considered as Major of Brigade to the Forces under your Command, upon his Arrival in Nova Scotia (whither he will be ordered immediately to repair) or upon Captain Campbell's quitting that Province, which ever shall first happen. But in Case of Major Moncrieffe's again leaving America, his Appointment of Major of Brigade is to cease, and, agreeably to the Rule laid down by my Predecessor's Letter of the 17th June 1783, the Employment is thereafter to be held only by Officers belonging to the Regiments on the Spot. I have the Honour to be, &c.

Major General Campbell, Halifax, Nova Scotia.

“GEO. YONGE.”

After more than Forty Years arduous Service, with the Approbation of the highest Characters Naval and Military of the Age, confirmed by the Sanction of his Sovereign, if DesBarres has not been able to avert the Malignity of Slander, he was at least intitled to the Justice of an Hearing, previously to being sacrificed to the Conspiracy of weak and deluded Men. He has incessantly demanded in vain a Trial to vindicate his Honour to the World. Thus precluded from public Investigation, and unable longer to sustain the Anguish of an Idea of Delinquency in the Service of a Country he had preferred in the earliest Period of Life, and which had adopted him with characteristic Generosity, he has no Resource but to state his Case, and respectfully to submit it, for being judged upon and dealt with according to its Merits.

PRÉCIS of DESBARRES' CLAIM.

Arrears of Disbursements incurred in carrying on Surveys of the Coasts and Harbours of Nova Scotia, and in preparing and supplying Charts, for the Public Service, from the Year 1763 to 1784, amounting to £.8801 16 4

Arrears of Advances incurred in the Prosecution of his Duty as Lieutenant Governor of Cape Breton, since the Year 1784, amounting to 5516 15 10½

Arrears of Salary, or equivalent Allowance.

The Expences accrued, by Law Charges, Seizures and Devastation of Property, Damages, Interests, &c. and the Sufferings, to which, in the long Course of arduous and unremitting Exertions he has unhappily been subjected—together with the Disappointment of Military Promotion and the acknowledged Utility of his Services, are most humbly submitted, for equitable *Consideration, Compensation, and Remuneration.*

ABSTRACT of ADVANCES, incurred by Lieutenant Colonel DesBarres, in the Prosecution of the following Services committed to him, and of PAYMENTS received upon Account thereof.

SERVICES and OBJECTS of EXPENDITURE.	ADVANCES incurred and charged.	PAYMENTS received on Account.	ARRARS of Advances.	INTERESTS accrued on Ar-rears 5 per C. per Ann.	SUM of Ar-rears, with Interests accrued.
Carrying on a Survey and taking the Soundings of the Coasts and Harbours of Nova Scotia—for defraying Contingencies, viz. surveying and astronomical Instruments, Implements, Assistants, Pilots, Guides, &c. employed therein.					
In the Years 1763	£. s. d. 132 10 0	£. s. d. 0 0 0	£. s. d. 132 10 0	£. s. d. 0 0 0	£. s. d. 132 10 0
1764	331 12 6	0 0 0	464 2 6	6 12 6	470 15 0
1765	423 13 2	0 0 0	887 15 8	29 16 7	917 12 3
1766	410 5 0	0 0 0	1298 0 8	74 4 7	1372 5 3
1767	642 9 2	0 0 0	1949 9 10	139 2 7	2129 12 5
1768	384 8 0	0 0 0	2324 17 10	236 2 11	2561 0 9
1769	447 4 8	0 0 0	2772 2 6	352 7 11	3124 10 5
1770	431 16 5	166 5 6	3037 13 5	491 0 0	3528 13 5
1771	398 10 4	0 0 0	3436 3 9	642 17 8	4049 1 5
1772	395 10 10	0 0 0	3831 14 7	884 9 5	4716 4 0
1773	384 3 1	0 0 0	4215 17 8	1095 5 4	5311 3 0
Constructing nautical Charts of the Coasts and Harbours of North America—for Contingencies, viz. Implements, Materials, Draftsmen, House Rent, Fuel, &c. employed therein.					
In the Years 1774	458 10 0	0 0 0	4674 7 8	1306 1 3	5980 8 11
1775	483 5 6	0 0 0	5157 13 2	1539 15 7	6697 8 9
1776	960 0 0	0 0 0	6117 13 2	1797 13 3	7835 6 5
1777	853 0 0	0 0 0	6970 13 2	2103 10 11	9074 4 1
1778	779 4 6	0 0 0	7749 17 8	2452 1 6	10201 19 2
1779	666 0 0	0 0 0	8415 17 8	2839 11 6	11255 9 2
1780	343 5 0	0 0 0	8759 2 8	3260 7 4	12049 10 0
1781	313 5 0	0 0 0	9072 7 8	3698 6 6	12770 14 2
1782	308 10 0	0 0 0	9380 17 8	4151 18 9	13534 16 5
1783	310 0 0	0 0 0	9690 17 8	4620 19 8	14311 17 4
Inspecting the Publication of the Atlantic Neptune—for defraying the Expence of engraving 257 Plates, contained therein [charged at the Rate of 35 Guineas for each Plate, being the Allowance settled by Government therefor] begun and completed, in the Period, from the Year 1774 to 1784, . . . £. 9444 15 and for the Expence of Materials and preparing Impressions for the Supply of the Public Service 1771 0	11215 15 0	12104 16 4	8881 16 4	5505 10 7	13907 6 11
Establishing a Colony in His Majesty's Island of Cape Breton—for Expence incurred in the Purchase of Provisions and Building Materials for the Supply of Loyalists, in pursuance of Instructions—Cost of Materials and Wages to Artificers and Labourers employed in the Erection of Buildings, for carrying on the Public Business in the several Colonial Departments, Magazines, Barracks and Accommodations for the Military, &c. and incidental Expences, specified in the Accounts periodically transmitted.					
In the Years 1784 and 1785.	11241 12 2½	0 0 0	20043 8 6½	5545 12 5	25589 0 11½
1786	6501 13 10½	5671 19 6	20873 2 11	6547 15 11	27480 18 10
1787	4522 18 3½	0 0 0	25396 1 2½	7591 9 0	32987 10 2½
1788	0 0 0	121 18 7	25274 2 7½	8861 5 2	34135 7 9½
1789	0 0 0	94 5 6	25179 17 1½	10124 19 4	35304 16 5½
1790	0 0 0	0 0 0	25179 17 1½	11383 19 4	36563 7 5½
1791	0 0 0	0 0 0	25179 17 1½	12142 19 2	37222 16 3½
1792	0 0 0	7171 16 11	18008 0 2½	13401 19 1	31409 19 3½
1793	0 0 0	3689 8 0	14318 12 2½	14302 7 2	28620 19 4½
1794	0 0 0	0 0 0	14318 12 2½	15018 5 10	29336 18 0½
1795	0 0 0	0 0 0	14318 12 2½	15734 7 4	30053 0 6½
1796	0 0 0	0 0 0	14318 12 2½	16450 8 10	30769 1 0½

Vide, Appendix C. 533, 534.

The late Earl of Egmont presiding at the Admiralty in 1763, had expressed, an earnest Disposition to encourage the Undertaking of the Survey of the, then unexplored, Coasts and Harbours of Nova Scotia, and

DesBarres had been promised to be rewarded therefor in a manner adequate to his Diligence, Abilities, and the Value of his Performance. His Lordship directed a Salary, at the Rate of Twenty Shillings a-day to be

paid to him in the mean time, and was pleased to signify that the Contingent Expences attending that necessary Service would be defrayed.

The Operations of the Survey were carried on, under the Inspection of the several Naval Commanders in Chief in America, until the End of 1773. Every Specimen of the Performance, transmitted in the Course of the Progress to the Admiralty, was honoured with the most encouraging Approbation. In result, numerous excellent Harbours were discovered, and the Navigation of that Coast, the Approach of which had previously been considered as an Object of Terror, became safe and easy.

On DesBarres's Return to England, His Majesty having been pleased to order the Work to be engraved, he was, until the year 1784, laboriously engaged in the the Prosecution thereof, and in the additional Work of preparing Charts, with Soundings and nautical Observations, of several other Parts of the American Coasts and Harbours, for the Public Exigencies.—His Majesty had been pleased (at the instance of Earl Howe in 1776, upon his Lordship's Appointment to the Chief Command of the Fleet in America) to direct Lord North to commit the said additional Work to DesBarres's Duty. Lord North referred the Superintendency of it to the Lords of Trade and Plantations; whereupon their Lordship's occasionally inserted, in their Estimates to Parliament, Sums of Money towards defraying the progressive Expence of engraving the Plates, adding thereto an allowance of Twenty-shillings a-day for his own extraordinary trouble, which he received during Four Years, from 1777 to 1780: But, in consequence of the Suppression of their Board, which took place about that Time, and of the Admiralty having discontinued, since the 31st of August 1779, the Payment of the Salary appointed by the Earl of Egmont, DesBarres received no farther Allowance for his unremitting and laborious Exertions, thenceforth to the 25th of June 1784.

DesBarres's Contingent Disbursements since 1763 (excepting £.166 5s. 6d. for Hire and Repairs of some of the small Craft, employed in taking the Soundings of the Coasts) remained unpaid. After many Representations on the Subject, having laid a Memorial before His Majesty, the Lords of the Admiralty advised the Payment of £.3915 17s. 8d. for Contingencies during the Period of the Survey, declining to give any Opinion with respect to the necessary Disbursements incurred in the Prosecution of the subsequent Work, carried on in pursuance of His Majesty's Royal Order to the First Lord of the Treasury, and their Lordships (after de-

claring in their Report that they did not think themselves competent to propose to His Majesty an adequate Compensation for his disappointment of Military Promotion and the losses he had sustained in private Fortune, by devoting so many Years of his Life to the Accomplishment of a Work of essential Public Utility) were pleased to recommend him, as deserving of some mark of the Royal Favour, and to rest his Case for Redress on His Majesty's Munificence. In 1784, DesBarres accordingly received, upon His Majesty's Order, the abovementioned Sum of £.3915 17s. 8d, which, in fact, did not even defray the mere Interests accrued on the actual Advances, absolutely incurred for enabling him to carry on with Efficacy the Services committed to his Duty.

In this unsettled Conjuncture of his Affairs, DesBarres was sent in great Haste to establish a Colony in Cape Breton. The Expenditures incurred in this Prosecution, and for fulfilling the Engagements of Government towards the Loyalists, were, as early as possible after his Arrival on the Spot, stated to His Majesty's Ministers—and, having submitted an Estimate of the current Expence, which appeared to him necessary to be incurred for effecting the Settlement proposed (which Estimate, calculated for Three Months amounted to £.4285 11s. 2d.) together with a Rule for his own proceedings, until he should receive farther Instructions (which was to transmit Quarterly Accounts, and occasionally to draw for the Balances) he drew sundry Bills on the Lords of His Majesty's Treasury upon Account thereof, which were paid. Subsequently, the Payment of Bills similarly drawn by DesBarres, for the Balances of the transmitted Accounts, was refused, without signifying to him, according to the invariable Rules of Office, the Reason of such an Alteration of Measures, or noticing any particular Objection, either to the Expenditures, or to the Charges contained in the Accounts. Hence followed, the Seizure and Devastation of his Property, for the Public Debt, and all the attendant Embarrassments, Expences, and Damages.

In July 1787, he received Orders to repair to England, for the specific purpose of giving an Account of the Transactions which had taken place in the Colony, and for answering Criminations which had been clandestinely fabricated and imposed on Government. He was officially assured that he had not been, and that he would not be, superseded, as the Appointment of Lieutenant Governor of Cape Breton had been given to him in Consideration of his Public Services.

ABSTRACT of ACCOUNTS rendered, for MONEY PAID, by
Lieutenant Governor DesBarres, for His Majesty's Service in the Settlement
of the Island of CAPE BRETON.

The Vouchers, which were periodically transmitted with the Accounts, are marked and numbered as per Margin.
Denote Articles, the Payment of which is disputed. *Vide* Reasons all ged and Observations thereupon. Pages 75 and 79.

Deb.	GOVERNMENT.	Cred.
From 19th November 1784 to 30th June 1785.		From 19th Nov. 1784 to 30th June 1785.
No. 1. Paid to Thomas Adfield, Esq. for so much paid out by him to sundry Persons employed in building Magazines for Provisions, and Stores, &c. —————	219 3 0	
2. — for fitting out Sheds for the Reception of Settlers on their Arrival in the Colony —————	98 19 0	
3. — for cutting down the Woods and clearing an Area for a Town Plat —————	61 19 3	
4. — and opening Roads of Communication thro' the Woods —————	59 17 3	
5. John Wolfington, for repairing Boats —————	6 9 4	
6. Sundry Persons, for Boards, Bricks, Lime, &c. —————	234 1 11	
7. Capt. Kitson, for fitting up Berths for 129 Passengers in the Ship <i>Blenheim</i> , hired of him by Government, and for Demurrage of said Ship —————	214 12 2	
8. William Babbs, for Stationary Ware —————	39 18 7	
<i>Building Materials for Loyalists.</i>		
No. 1. Paid Ephraim Farnham, —————	305 5 4	
2. Eliza Hopkins, —————	156 7 6	
3. Martin Meagher, —————	138 11 2	
4. Kenneth Reach, —————	22 2 9	
5. James Elmlie, —————	158 9 6	
6. Abraham Knowlton —————	286 6 3	
Amounting to £2002. 3. 1. Halifax Currency—equal, in <i>Sterling Money</i> , to	1801 18 9	
From 1st July to 30th September 1785.		From 1st July to 30th September, 1785.
No. 1. Paid to David Taitt, Esq. for so much paid out by him to Artificers and Labourers employed in building Barracks, Officers Quarters, Hospital, &c.;—from 1st to 31st July —————	208 7 6	
2. — from 1st to 31st August —————	329 11 9	
3. — from 1st to 30th September —————	340 16 0	
4. John Fox, Adjutant of the 33d Regiment, for Working Parties in July and August —————	103 13 11	
5. — in September —————	82 14 11	
6. James Graham, Master of the Government Brigantine <i>St. Peter</i> , for Repairs and Outfits, and for Wages to himself and Crew from 25th October 1784 to 1st August 1785. —————	357 6 11	
7. Archibald Campbell, for 5 Bills Pitch —————	5 0 0	
8. Joseph Macnamara, for Hire of Schooner <i>Kitty</i> , employed in carrying Building Materials, &c. from 17th July to 12th September —————	33 6 8	
9. William Lloyd, for Hire of Schooner <i>Sufannah</i> , employed in bringing Artificers, Labourers, and Miners, into the Colony, from 20 July to 12 Sept. —————	61 5 0	
10. Hugh Gordon, for purchase of Two Boats, and Wages of the Crews from the 10th June, to 30th September —————	173 5 8	
11. William Plant, for a Scow to carry Stone and Lime —————	35 0 0	
12. Sundry Persons, for Building Materials, —————	1605 12 1	
13. Archibald Campbell, for Oxen and Forrage —————	444 0 4	
14. Sundry Persons, for Provisions for the Support of Loyalists, Artificers and Labourers, employed in Public Works —————	1234 0 9	
15. J. E. Boisseau, for Expenses incurred by him on a Mission to St. Pierre Miquelon for reclaiming the Schooner <i>Harriet</i> , belonging to E. Kavanaugh of Cape Breton, and apprehending the Pirates who ran away with the said Schooner —————	27 12 2	
16. H. W. Perry, for engrossing Minutes of Council, Ordinances and Documents, transmitted, according to Instructions, to His Majesty's Secretary of State and to the Lords of the Committee of Privy Council for Trade and Plantations —————	23 6 8	
17. Sundry Persons, employed as Assistant Surveyors in laying out the Town of Sydney, Allotments of Land to Settlers, &c. —————	324 7 4	
Amounting to £5369. 12. 8. Halifax Currency—equal in <i>Sterling Money</i> to	4830 6 2	
From 1st October to 31st December 1785.		From 1st October to 31 December 1785.
No. 1. Paid to Geo. Rodgers, Esq. for so much paid out by him to sundry Artificers and Labourers employed in building Barracks, Officers Quarters, Messhouse, Provisions Stores, Offices for the Collector and Comptrollers of the Customs, Goal, School, &c. hewing Timber and quarrying Stone for the Public Buildings, from 1st to 1st October —————	540 5 6	
2. — from 1st to 30th November —————	540 2 6	
3. — from 1st to 31st December —————	553 9 0	
4. Col. Yorke, for Working Parties in October and November —————	93 16 6	
5. — in December —————	8 15 0	
6. Thomas Venture, for Bills drawn on W. Roberts to pay for Provisions purchased by him at Rhode Island for the Support of Loyalists and Others employed in the Public Works, and for Repairs of the Government Brigantine <i>St. Peter</i> —————	888 17 9	
7. John Oniel, for Working Oxen —————	45 0 0	
8. J. Wilson, Hire of Schooner <i>Sydney</i> , from 21 Aug. to 11 Oct. —————	41 13 4	
9. John Obrian, for 5½ Cwt. Biscuit —————	7 3 9	
10. Benjamin Davies, for a Batteau for carrying Lime, &c. —————	18 0 0	
11. John Reynolds, for Boards and Shingles —————	131 11 0	
12. Joseph Guyon, for Bricks —————	32 8 0	
13. John Wilkinton and Others, for surveying damaged Stores —————	4 10 0	
14. John Jodrit, for 9558 Rations of Provisions —————	265 10 0	
15. John Wilkinton, for Nails and Planks —————	146 0 0	
16. Maning, Armstrong, and Wheldon, for Labour —————	27 0 0	
Carried on	6632 4 11	Carried on

Cred^r.

		Brought on		Brought on	
15.	Maddox and Co. for burning Lime	34	8	6	
16.	Henry White, for stoves for the Public Offices	40	8	6	
17	J Wilson, for Hire of Schooner Sydney, from 12th October to 24th December	72	0	0	
18.	Samuel Sparrow, for 100 Bils Flour and 60 Bils Pork	432	2	6	
19.	Alexander Macdonald, for Carpenters Work	10	0	0	
20.	Major Thomas Moncrieffe, for Allowance of Lodging Money, &c, to the Officers of the Military Staff, from 24th November 1785 to 24 November 1785.	277	15	6	
21.	H. W. Perry, for Copying Clerks, &c.	168	18	0	
22.	Abraham Cuyler, for Contingencies	15	15	4	
23	John Storey, for Flour, &c.	183	16	0	
24.	Joseph Gravois, for 8048 Rations of Provisions	232	17	9	
B 3 No 1.	John Wilkinfon, for Boards and Shingles for Loyalists	306	13	4	
Amounting to £5118. 17. 9½. Halifax Currency—equal, in Sterling Money, to		4607	0	0	
From 1st January to 24th March 1786.					
A 4. N 1.	Paid G. Rodgers, Esq. for paid by him to Artificers and Labourers employed in the Public Works—from 1st to 24 Jan.	385	18	0	
2.	—From 25th January to 24th February	485	9	6	
3.	—From 25th February to 24th March	444	19	0	
4	William Bowen, for Blacksmiths' Work	241	12	5	
5	Augustin Merceau, for 33 Barrels Flour	63	6	8	
6.	H. W. Perry, for himself and Three Clerks	69	1	8	
7	George Rodgers, for Coutingent Expenses	142	18	1	
B 4. N. 1.	Francis Bouchet, for Purchase of Brigantine Rachael and Cargo of Provisions	1363	5	11	
Amounting to £3169. 11. 3. Halifax Currency—equal, in Sterling Money, to		2876	18	11	
From 25th March to 11th July 1786.					
A 5, N 1.	Paid to G. Rodgers, Esq. for paid by him to Artificers and Labourers employed in the Public Works—from 25 March to 24th April	450	5	10	
2.	—From 25th April to 24th May	371	7	1	
3.	—From 25th May to 24th June	311	9	4	
4.	—From 25th June to 11th July	176	14	3	
5.	Robert Rofs, for Provisions	409	0	10	
6.	Outfits of Government Brigantine Relief, and Four Months Pay for her Crew	137	19	4	
7.	P. R. Nugent, surveying—from 1st October 1785 to 24th March 1786	104	15	0	
8.	N. Robertson, for Provisions and Supplies furnished to Loyalists, &c:	184	1	0	
Amounting to £2148. 12. 8. Halifax Currency—equal, in Sterling Money, to		1933	15	4½	
From 12th July to 24 December 1786.					
A 6. N 1.	Paid to W. Bowen, for Hire of a Shallop employed in landing Provisions and Stores	7	10	0	
2. to 4.	Sundry Persons, for quarrying Stone, burning Lime, &c.	144	7	4	
5.	George Rodgers, for contingent Disbursements	323	16	2	
6. to 12.	Sundry Persons, for relaying 16 Floors in the Barracks, setting up Births and Accommodations, casing Windows, furring and lathing, plastering, &c.	205	15	7	
13.	Joseph Gravois, for Purchase of Schooner Refource and Wages to the Crew from 1st March to 13th October	339	3	4	
14.	George Rodgers, Acting Secretary from 12th July to 24th December, at 6s. per Diem	49	16	0	
15.	W. Plant, Issuer of Provisions, from Do. to Do. at 3s. per Diem	24	18	0	
16.	W. Brown, Master Carpenter from Do. to Do. at 5s. per Diem	37	0	0	
B 5. N 1.	William Lloyd, for a Boat, to replace One staved in the Service of the Officers of His Majesty's Revenue	22	6	0	
B 6. N 1.	Samuel Sparrow, for Provisions	547	18	2	
2.	P. R. Nugent—Surveying account to the 30th September	135	10	6	
3.	Samuel Sparrow for Boards, Nails, &c.	40	17	1	
Amounting to £1878. 18. 2. Halifax Currency—equal, in Sterling Money, to		1691	0	4½	
From 25th December 1786 to 13th October 1787.					
B 7. N 10.	Paid to sundry Persons, for Provisions	471	9	3	
11.	Mathew Murray, for Cordage and Canvas for the Government Craft	7	11	6	
12.	Kenneth Reach, for drawing Articles of Agreement with Labourers employed in the Public Works	2	5	0	
13 to 16.	John Lees, for Provisions, &c	218	3	4	
17.	Tremaine and Stout, for Provisions and fundries supplied for the Public works	36	16	4	
A 8. N 1.	—for surveying Lumber	10	11	0	
2.	William Ruffel, for Blocks for the Government Craft	2	14	8	
3.	Gruntmeyer & Morris, for Timber and Scantling	21	17	8	
4.	Thomas Pitt, for Writing	15	0	0	
5.	E. Dillon for Hire of a Shallop to carry Bricks	3	18	9	
6.	Do. to land Stores, &c.	2	10	0	
7.	Thomas Lloyd, for repairing Boats	10	0	0	
8.	Allowance to the Messenger of the Colonial Council, from 1st January to 31 December 1786	20	0	0	
9.	Do. to the Drummers of the 33d Regiment for calling Working Parties	2	1	5	
10 to 17.	Carpenters' Work, to sundry Persons	16	0	3½	
18.	William Babbs, for Stationary Ware	39	13	3½	
19.	Allowance to the Messenger of Council, up to 30th June, 1787	10	0	0	
20.	Do. to George Rodgers, as Acting Secretary, 6s. per Diem, from 25 Dec. 1786 to 13 Oct. 1787	87	18	0	
21.	Purchase and Outfits, of Sydney Tender and Speedwell Shallop, and Wages of the Crews	346	4	11	
23.	Ferriage, of Artificers, &c. across Miray	46	2	3	
Carried on		17740	18	9½	

		Brought on		Brought on	
From 1st January to 24th March 1786.					
By Bill drawn, upon Account of current Expenditures, on the Lords of His Majesty's Treasury and paid in pursuance of Warrants dated 6th and 26th January					
By Do. paid in pursuance of His Majesty's Warrant, dated 30th January					
From 25th March to 12th July 1786.					
By Bill drawn on the Lords of His Majesty's Treasury paid in April					
By Do. Do.					
From 12th July to 24th December 1786.					
By Bills, drawn on the Lords of His Majesty's Treasury, paid in September, viz. £100, £395, and £731 19s. 4d.					
From 25th December 1786 to 13th Oct. 1787.					
Carried on					

		Brought on			Brought on		
24.	H. W. Perry, dispatched to England on the Public Service, for his Expences	*88	17	9½			
25.	Hugh Gordon, Coxswain, for Wages to himself and Boatmen, from 1st September 1785 to 31st July 1787	*208	9	4			
26.	Richard Gibbons, for paid by him to engross Copies of Papers and Documents to lay before His Majesty's Ministers	*9	6	8			
27.	C. Sharp & Co. for Stoves, Coppers, Range, &c.	83	19	3½			
28.	Nails, Blacksmiths Tools, Forge Bellows, Iron and Steel, &c. to sundry Persons	241	6	0½			
29.	Surveying, Lumber, printing, &c.	43	7	6			
30.	Molasses for Allowance to Artificers and Labourers employed in the Public Works	90	2	9½			
31.	43304 Feet Clapboards and 14358 Laths	*264	9	11½			
32.	3950 Bushels Lime	*191	10	0			
Amounting to £2572. 7. 0. Halifax Currency—equal, in Sterling Money, to		2315	2	4½			
Vide Account of the Coal Mines.	Expence for Tools, Lumber, &c. and for the Pay of Miners, Artificers and Labourers in the Coal Mines	2431	13	2½			
	The Proceeds amounted to £2693. 14. 3.—part of which was expended in supplying the Allowances of Fuel to the Troops, &c. and other Public Services—part remained on the Spot to be disposed of for the Account of Government—and the Residue is accordingly credited towards defraying the said Expence	1677	8	6			
		*754	4	8½	678	16	3
Deduct from the foregoing Amount: For Provisions distributed by Orders of Lieutenant Governor DesBarres among indigent Settlers, and issued to Others on Condition of performing Labour in the Public Works for Value thereof, or replacing the same into the Public Store, [but which the subsequent Measures of Government prevented from taking effect.]		502	0	1½	20734	17	4½
	— Building Materials issued in the like manner	237	0	4			
	— usual stoppages, at the Rate of 2½d. per Ration, from Artificers and Labourers	215	5	0			
	— Building Materials, applied towards liquidating Wages and Claims due by Government	156	12	10			
	— Pay of Artificers and Labourers for the Time they were borrowed from the Public Works to assist in Objects of individual Necessities and private Accommodation	188	1	2			
	— Six Working Oxen, which, being no longer required in the Public Works, and being an Expence in keeping, were disposed of for the Account of Government	76	0	0			
Amounting to £1374 19. 5½. Halifax Currency—equal in Sterling Money to		1237	9	5			
		19497	7	11½			
Incidental Articles of Expenditure from 1784 to 1789.							
For packing, Cartage, shipping and transport of Baggage, Furniture, and Necessaries, and for travelling Charges and Voyage, in 1784, from London to Cape Breton, in pursuance of His Majesty's Royal Appointment and Orders to repair thither as Lieutenant Governor and Commander in Chief for establishing a Colony		315	0	0			
Engraving Public Seals for the Supreme Court of Judicature, and of the Customhouse and Secretary's Offices of Cape Breton,		29	6	9			
Surveying Instruments and Implements supplied for the Public Service.		102	9	9			
Writing Business performed by sundry Persons in the several Colonial Departments—Fuel, Candles, Stationary Ware, &c. for the Council Chambers, the Offices of the Superintendent and Paymaster of the Public Works, of the Commissioners for inquiring into the Claims of Loyalists and disbanded Troops with respect to Provisions and Lands, of the Examiner of Public Accounts, and of the Secretary—for the Public School, &c. and Attendants thereon.		512	0	0			
Expreses and Vessels dispatched in quest of Provisions for the Preservation of the Infant Colony, viz. Albert Rose, to Windsor and Falmouth in Nova Scotia, £11. 13.—Jacob Muller, to Louisbourg £2. 14.—Christopher Winter, to St. Peter's Bay, £3. 3.—Thomas Venture, to Rhode Island, £319. 8. 10.—Richard Sweet, to Halifax, £33. 6.—Joseph Gravois, to the Settlements in the Gulf of St. Lawrence, £27.—and for Equipment of, and Allowance to a Party of One hundred Men to Arishat Harbour £300. 12.		697	16	10			
Allowed to Chief Justice Gibbons, towards defraying his Expences on a Voyage to England, by Advice of the Colonial Council, to lay before His Majesty's Ministers the State of the Colony		104	2	1			
Purchase and Outfits of the Brigantine Gaspoy, Wages of the Crew, Ship Stores and Provisions, &c. in order to repair to England in Obedience to His Majesty's Royal Commands, received in July 1787, for giving Account of the Proceedings which had taken place in the Colony, &c.		708	1	0			
Voyage Expences for bringing to England the Superintendent and Paymaster and One of the Overseers of the Public Works in Cape Breton, for the purpose of being examined and of explaining minutely to Government the Circumstances and Transactions respecting the Expences and Accounts—and for their Support during the Time they were detained.		300	0	0			
		£. 22266	4	4½			
In 1788 and 1789.							
By Bill drawn on the Lords of His Majesty's Treasury paid in January 1788		121	18	7½			
By Do. paid in August, 1789		94	5	6			
In 1792 and 1793.							
By Amount of Bills and Demands for Expenditures incurred for His Majesty's Service in the Settlement of the Colony of Cape Breton, liquidated by Sir Herbert Mackworth and Co. in pursuance of Directions from the Lords of His Majesty's Treasury, as appears by Account rendered by them into Treasury in April 1792		7171	16	11			
By His Majesty's Warrant for £2000 (deduct Fees £5. 6.) paid in August 1793		1994	14	0			
By Do. for 1700 (deduct Fees £5 6s) paid in December 1793		1694	14	0			
BY BALANCE due from Government		5516	15	10½			
		£. 22266	4	4½			

SUMMARY of the foregoing EXPENDITURES incurred in the Settlement of His Majesty's Colony of CAPE BRETON.

PROVISIONS for Loyalists, and for Artificers, Labourers, &c. employed in the Public Service	4947	2	5
MATERIALS, for shelter to Loyalists, and for building Magazines for Provisions and Stores, Offices for carrying on the Business of the several Colonial Departments, Barracks for the Garrison Troops, Hospital, Goal, Accommodations for School, performing Divine Worship, &c. [Vide Pages 62 & 63: Also Plans, Elevations, Sections, Descriptions and Statements of the relative Expenditure for erecting Public Buildings in Cape Breton transmitted to Office, &c.] viz. Lime, Bricks, Timber, Planks, Boards, Clapboards, Shingles, Laths, Nails, Ironwork, Glafs, Paint, &c. &c.	4188	15	1½
WAGES of Overseers, Artificers and Labourers	5062	14	2
PURCHASE, Hire, and Outfits, of VESSELS and CRAFT employed in the Exigencies, Provisions and Wages of Crews, &c:	2467	19	2½
SURVEYORS, employed in laying out Settlements and Locations of Lands to Individuals, and for Instruments and Implements used therein.	612	1	8
SECRETARY, Clerks, Stationary Ware, Fuel, Candles, Attendants, &c. in the several Colonial Offices and Departments	964	13	0
COAL MINES. Vide: Explanations, Page 79.	678	16	3
CONTINGENCIES, viz. Working Oxen and Forrage: Allowance for Lodging Money, &c. to the Officers of the Military Staff: Vessels, Expresses and Parties of Men, dispatched in quest of Provisions. Expenses incurred in sending by Advice of the Colonial Council the Chief Justice to England, to lay before His Majesty's Ministers the State and Circumstances of the Colony, and the Examiner of the Public Accounts, to explain the Exigency of the Expenditures and the Rectitude of the Accounts; and, subsequently, for bringing over the Superintendent and Paymaster and One of the Officers of the Public Works in order to be farther examined thereon and to verify the same, &c, &c.	3344	2	6
	£.22266	4	4½

[illegible]

12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100

MOVIES and Government for carrying on Cultural Struggle in North America from 1941 to 1971 and afterwards, preparing the stage and setting for revolution